



CITY OF WESTFIELD, IN
Board of Public Works_Meeting_Agenda_04_27_2022

Wednesday, April 27, 2022 at 01:00 PM

BOARD OR COMMISSION: Board of Public Works and Safety

MEETING DATE: Wednesday, April 27, 2022 at 01:00 PM

MEETING PLACE: City Services Center- Main Level Media Room

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

AGENDA ITEMS

Meeting Minutes Consideration for Approval

Action Item #1:

Minutes – March 23, 2022

Documents: [March 23, 2022 Meeting Minutes](#)

Bid Approval

NONE

Construction Standards & Specifications Changes

NONE

Change Orders

Action Item #2:

3D Company & City of Westfield – Westfield Park Culvert Project – Change Order Request #1

Documents: [Change Order Request #1](#)

Contracts/Agreements

Action Item #3:

USI Consultants & City of Westfield – 161st & Oak Roundabout Supplemental No. 1

Documents: [Supplemental #1](#)

Action Item #4:

City of Westfield & Byron E. & Elizabeth S. Moore – Agreed Findings

Documents: [Agreed Findings & Judgment](#)

Action Item #5:

City of Westfield & Daystar Directional Drilling – 2022 Centennial Sump Line Repairs

Documents: [Daystar Directional Drilling Proposal](#)

Action Item #6:

City of Westfield & Resolution Group, Inc. – On-Call Engineering Services

Documents: [Master Service Agreement](#)

Action Item #7:

City of Westfield & Lochmueller Group, Inc. – On-Call Engineering Services

Documents: [General Services Agreement](#)

Action Item #8:

City of Westfield & VS Engineering – Professional Services Contract – Improvements Around Union Bible College

Documents: [Westfield Union Street Contract](#)

Resolutions

Action Item #9:

Resolution #22-107 City of Westfield to Opt Back in to Opioids Settlement

Documents: [Resolution 22-107](#) | [Amendment to Agreement](#)

Consent Agenda

WPD - Approval to Hire One Officer

April Bond Information

Documents: [April Bond List](#)

Department Reports

Fire

Documents: [WFD March Report](#)

Police

Documents: [WPD March Report](#)

Public Works

CHANGE ORDER REQUEST



3D Company Inc.

3200 East CR 350 North - Muncie, IN 47303

Phone: (765) 288-3326

Fax: (765) 288-3344

To: City of Westfield, Public Works
Johnathon Nail
Chad Mills

Project Name: Westfield Park Road Over Grassy Branch

Date: December 16, 2021

CO Request #: 1

Job #: 3D 2551

Explanation	Amount
Change Order Request for additional compensation to unit prices provided in the	
July 20, 2021 bid. Please find attached updated Itemized Proposal with the following:	
2022 Price Escalations 1 LS @ \$133,149.06	\$133,149.06
Please note that any quantity overrun to the attached unit prices would need handled	
with an additional change order at or near completion of the project.	
2022 Contract Time Adjustment	
Notice to Proceed to be Issued April 4, 2022	
Calendar Days to Complete 120 DAYS	
Closure Days at Bridge 45 DAYS	
TOTAL AMOUNT THIS CHANGE ORDER REQUEST:	\$133,149.06

Change Order Approved By:

Change Order Approved By:

By: _____

By: _____

BASE BID ITEMIZED PROPOSAL UPDATED FOR 2022 SEASON

ID	ITEM NO.	DESCRIPTION	UNIT	ESTIMATED QUANTITY	UNIT PRICE	AMOUNT	UNIT PRICE 2022	AMOUNT 2022
1	105-06845	CONSTRUCTION ENGINEERING	LS	1.00	\$ 16,993.00	\$ 16,993.00	\$ 17,092.12	\$ 17,092.12
2	105-12018	UTILITY PROTECTION	LS	1.00	\$ 6,149.00	\$ 6,149.00	\$ 6,811.00	\$ 6,811.00
3	110-01001	MOBILIZATION AND DEMOBILIZATION	LS	1.00	\$ 86,345.00	\$ 86,345.00	\$ 100,224.20	\$ 100,224.20
4	201-52370	CLEARING RIGHT OF WAY	LS	1.00	\$ 6,549.00	\$ 6,549.00	\$ 7,026.10	\$ 7,026.10
5	202-01000	STRUCTURES AND OBSTRUCTIONS, REMOVE	LS	1.00	\$ 6,008.00	\$ 6,008.00	\$ 6,453.20	\$ 6,453.20
6	202-02240	PAVEMENT REMOVAL	SYS	227.00	\$ 16.32	\$ 3,704.64	\$ 20.27	\$ 4,600.61
7	202-02278	CURB, CONCRETE, REMOVE	LFT	136.00	\$ 8.38	\$ 1,139.68	\$ 9.45	\$ 1,285.20
8	203-02000	EXCAVATION, COMMON	CYS	290.00	\$ 67.62	\$ 19,609.80	\$ 78.64	\$ 22,805.60
9	205-06933	TEMPORARY INLET PROTECTION	EACH	2.00	\$ 550.00	\$ 1,100.00	\$ 715.00	\$ 1,430.00
10	205-12109	SWQCP PREPARATION AND IMPLEMENTATION, LEVEL 1	LS	1.00	\$ 8,332.39	\$ 8,332.39	\$ 8,332.24	\$ 8,332.24
11	206-11761	SHEET PILING STEEL, S=48.5	SFT	1479.00	\$ 107.80	\$ 159,436.20	\$ 126.21	\$ 186,658.67
12	206-51235	COFFERDAM	LS	1.00	\$ 11,022.76	\$ 11,022.76	\$ 16,801.93	\$ 16,801.93
13	211-09265	STRUCTURE BACKFILL, TYPE 2	CYS	150.00	\$ 54.01	\$ 8,101.50	\$ 55.22	\$ 8,283.00
14	211-09268	STRUCTURE BACKFILL, TYPE 5	CYS	338.00	\$ 123.72	\$ 41,817.36	\$ 138.85	\$ 46,931.64
15	301-12234	COMPACTED AGGREGATE NO. 53 - 12"	TON	169.00	\$ 33.06	\$ 5,587.14	\$ 33.89	\$ 5,727.58
16	301-12234	COMPACTED AGGREGATE NO. 53 - 6"	TON	8.00	\$ 122.83	\$ 982.64	\$ 125.76	\$ 1,006.05
17	301-12234	COMPACTED AGGREGATE NO. 53 - 8"	TON	23.00	\$ 74.13	\$ 1,704.99	\$ 75.92	\$ 1,746.23
18	304-07490	HMA PATCHING, TYPE B, 1	TON	2611.00	\$ 99.00	\$ 258,489.00	\$ 107.80	\$ 281,465.80
19	304-07490	HMA PATCHING, TYPE B, 2	TON	389.00	\$ 99.00	\$ 38,511.00	\$ 107.80	\$ 41,934.20
20	306-08036	MILLING, ASPHALT, 2 IN.	SYS	3746.00	\$ 2.20	\$ 8,241.20	\$ 2.20	\$ 8,241.20
21	401-07321	HMA, TYPE B, 64, SURFACE, 9.5 mm	TON	1129.00	\$ 82.50	\$ 93,142.50	\$ 91.30	\$ 103,077.70
22	401-07322	QC/QA-HMA, 3, 64, SURFACE, 9.5 mm - 1.50"	TON	22.00	\$ 93.50	\$ 2,057.00	\$ 102.30	\$ 2,250.60
23	401-07392	QC/QA-HMA, 3, 64, INTERMEDIATE, 19.0 mm - 2.50"	TON	32.00	\$ 99.00	\$ 3,168.00	\$ 107.80	\$ 3,449.60
24	401-07424	QC/QA-HMA, 2, 64, BASE, 19.0 mm - 5.00"	TON	64.00	\$ 99.00	\$ 6,336.00	\$ 107.80	\$ 6,899.20

25	406-05520	ASPHALT FOR TACK COAT	TON	2.60	\$ 110.00	\$ 286.00	\$ 110.00	\$ 286.00
26	601-04793	GUARDRAIL	LFT	103.00	\$ 566.50	\$ 58,349.50	\$ 585.20	\$ 60,275.60
27	601-06037	GUARDRAIL, END TREATMENT, I	EACH	1.00	\$ 21,736.00	\$ 21,736.00	\$ 22,451.00	\$ 22,451.00
28	604-06070	5' SIDEWALK, CONCRETE - 5.00"	SYS	71.00	\$ 135.00	\$ 9,585.00	\$ 137.52	\$ 9,764.06
29	605-97937	CURB AND GUTTER, ROLL CURB	LFT	136.00	\$ 88.00	\$ 11,968.00	\$ 88.00	\$ 11,968.00
30	616-06405	RIPRAP, REVETMENT	TON	799.00	\$ 51.35	\$ 41,028.65	\$ 58.22	\$ 46,517.78
31	616-12251	GEOTEXTILE FOR RIPRAP TYPE 3	SYS	298.00	\$ 5.54	\$ 1,650.92	\$ 5.54	\$ 1,650.03
32	621-06545	FERTILIZER	TON	0.00	\$ -	\$ -	\$ -	\$ -
33	621-06567	WATER	kGAL	0.02	\$ 110.00	\$ 2.20	\$ 110.00	\$ 2.20
34	621-06570	TOPSOIL	CYS	2.00	\$ 389.22	\$ 778.44	\$ 403.38	\$ 806.75
35	621-06575	SODDING, NURSERY	SYS	6.00	\$ 430.10	\$ 2,580.60	\$ 430.10	\$ 2,580.60
36	702-51015	CONCRETE, B, FOOTINGS	CYS	22.00	\$ 1,514.80	\$ 33,325.60	\$ 1,757.06	\$ 38,655.41
37	706-08496	REINFORCED CONCRETE MOMENT SLAB, 12 IN.	SYS	42.00	\$ 398.69	\$ 16,744.98	\$ 431.62	\$ 18,128.04
38	706-09961	RAILING, CONCRETE PS-1	LFT	42.00	\$ 470.90	\$ 19,777.80	\$ 506.09	\$ 21,255.95
39	706-11418	RAILING, STEEL PS-1	LFT	42.00	\$ 192.50	\$ 8,085.00	\$ 199.10	\$ 8,362.20
40	603-91714	FENCE, RAIL WOOD	LFT	26.00	\$ 160.60	\$ 4,175.60	\$ 165.00	\$ 4,290.00
41	720-01355	INLET, CLEAN EXISTING	EACH	2.00	\$ 557.25	\$ 1,114.50	\$ 604.00	\$ 1,208.00
42	720-44000	CASTING, ADJUST TO GRADE	EACH	2.00	\$ 440.76	\$ 881.52	\$ 489.51	\$ 979.02
43	723-11233	STRUCTURE, REINFORCED CONCRETE, THREE-SIDED SECTIONS, 240 IN. X 96 IN.	LFT	49.00	\$ 2,796.51	\$ 137,028.99	\$ 3,158.01	\$ 154,742.34
44	801-06196	DETOUR ROUTE MARKER ASSEMBLY	EACH	15.00	\$ 353.10	\$ 5,296.50	\$ 353.10	\$ 5,296.50
45	801-06640	CONSTRUCTION SIGN, A	EACH	13.00	\$ 250.80	\$ 3,260.40	\$ 250.80	\$ 3,260.40
46	801-06645	CONSTRUCTION SIGN, B	EACH	80.00	\$ 137.50	\$ 11,000.00	\$ 137.50	\$ 11,000.00
47	801-06775	MAINTAINING TRAFFIC	LS	1.00	\$ 22,426.60	\$ 22,426.60	\$ 24,756.08	\$ 24,756.08
48	801-07118	BARRICADE, III-A	LFT	80.00	\$ 20.39	\$ 1,631.20	\$ 20.39	\$ 1,631.52
49	802-02475	SIGN, PANEL, RELOCATE	EACH	7.00	\$ 605.00	\$ 4,235.00	\$ 605.00	\$ 4,235.00

50	808-03439	TRANSVERSE MARKING, THERMOPLASTIC, CROSSWALK LINE, WHITE, 24 IN.	LFT	100.00	\$ 44.00	\$ 4,400.00	\$ 44.00	\$ 4,400.00
51	808-75245	LINE, THERMOPLASTIC, SOLID, YELLOW, 4 IN.	LFT	5140.00	\$ 2.18	\$ 11,205.20	\$ 2.18	\$ 11,194.92
52	808-75297	TRANSVERSE MARKING, THERMOPLASTIC, STOP LINE, WHITE, 24 IN.	LFT	15.00	\$ 110.00	\$ 1,650.00	\$ 110.00	\$ 1,650.00
Total						\$ 1,228,732.00	TOTAL 2022	\$ 1,361,881.06

Base Bid Amount in words for Westfield Park Road Culvert Replacement:

One million two hundred twenty eight thousand seven hundred thirty two Dollars and 00/100

2022 Updated: One million three hundred sixty one thousand eight hundred eighty one Dollars and 06/100

This price is the sum of the quoted unit prices multiplied by the quantity for each item as shown on the above Base Bid Itemized Proposal.

~ SUPPLEMENTAL AGREEMENT NO. 1 ~

This Supplemental Agreement is made and entered into on _____, 2022 by and between **USI CONSULTANTS, INC.** and **CITY OF WESTFIELD** (hereinafter referred to as the LOCAL PUBLIC AGENCY). WHEREAS, **USI CONSULTANTS, INC.** (hereinafter referred to as DESIGN CONSULTANT) has been selected to provide professional engineering services to the LOCAL PUBLIC AGENCY, for the project hereinafter described:

DES NO.: 1801433

Intersection Improvement, 161st Street and Oak Road

W I T N E S S E T H

WHEREAS, on July 25, 2018, the DESIGN CONSULTANT and the LOCAL PUBLIC AGENCY did enter into an Agreement for the above referenced project and

WHEREAS, the utility conflicts and resolutions were complex and require additional utility coordination and;

WHEREAS, the number of parcels impacted were reduced and;

WHEREAS, the right-way easement required revisions and;

WHEREAS, extensive utility coordination throughout the construction of the project is anticipated;

WHEREAS, in order to provide for completion of the services, it is necessary to amend and supplement the Contract dated July 25, 2018.

WHEREAS, in order to provide for completion of the services, it is necessary to amend and supplement the Contract in the amount of **\$15,000.00**.

NOW, THEREFORE, it is agreed by and between the parties that the following Sections are amended as follows:

1. **SECTION III**, TERM is removed and replaced as follows:

The term of this Contract shall be from the date of the last signature affixed to this Contract to the completion of the construction contract which is estimated to be December 31, 2024. 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.

2. **SECTION IV**, Last Sentence as follows:

The maximum amount payable under this Contract shall not exceed \$260,880.00.

3. **APPENDIX D - “COMPENSATION”** is removed and replaced with the following:

COMPENSATION:

1. The CONSULTANT shall receive as payment for the services performed under this Agreement the total fee not to exceed **\$260,880.00** (\$245,880.00 Original Agreement plus \$15,000.00 for this Supplement No. 1) unless a modification of the Agreement is approved in writing by the LOCAL PUBLIC AGENCY.

2. The CONSULTANT will be paid for the services described in Appendix “A” on a lump sum basis unless otherwise noted in accordance with the following fee schedule:

A. Topographic Survey per IAC 865	\$	29,800.00	
B. Environmental Services.....	\$	25,630.00	
C. Roundabout Design including	\$136,000.00	\$	146,000.00
➤ Environmental Permitting			
➤ Utility Coordination			
➤ Pavement Design			
D. Geotechnical Services.....	\$	13,520.00	Unit NTE
E. ROW Engineering (Based on 9 6 Parcels)	\$25,350.00	\$	22,100.00
F. Subsurface Utility Engineering	\$11,580.00	\$	15,830.00
G. Construction & Utility Phase Services	\$4,000.00	\$	8,000.00 Hourly NTE

The CONSULTANT shall not be paid for any service performed by the LOCAL PUBLIC AGENCY or services not required to develop this project. If notice to proceed with any portion of the work is not given prior to one year from the date of this Agreement, the fees for that portion of the work may be renegotiated as mutually agreed upon by the LOCAL PUBLIC AGENCY and the CONSULTANT. Costs for routine photocopy and paper reproduction, cellular phone costs, pager costs and computer time costs will not be paid as a reimbursable but is to be included in the above fees and overhead costs.

3. Method of Payment

The CONSULTANT shall submit invoices to the LOCAL PUBLIC AGENCY, not more often than once per month during the progress of the work, for partially completed work as of the date of the invoice. Such invoices shall represent the value, to the LOCAL PUBLIC AGENCY, of the partially completed work based on the proportion which its percentage of completion bears to the total cost of the fully completed work.

Invoices shall be submitted to:

John Nail
LPA Contact Name

jnail@westfield.in.gov
Email

The LOCAL PUBLIC AGENCY for and in consideration of the rendering of the engineering services provided for in Appendix "A", agrees to pay the CONSULTANT for rendering such services the fee established above upon completion of the work there under, acceptance thereof by the LOCAL PUBLIC AGENCY and upon the CONSULTANT submitting an invoice as described above.

In the event of a substantial change in the scope, character or complexity of the work on the project, the maximum fee payable and the specified fee shall be adjusted.

Hourly Not-to-Exceed (NTE) fees to be paid at the USI Billable Hourly Rates Per Classification and direct expense rates listed below. Any NTE fees occurring after July 1 of the year listed in the effective date below shall have hourly rates updated as submitted by CONSULTANT to the LOCAL PUBLIC AGENCY.

2021 – 2022 USI Billable Hourly Rates Per Classification

Effective: February 11, 2022

CLASSIFICATION		BILLABLE HOURLY RATE
1	Business Development	\$ 252.00
2	CADD Technician	\$ 89.00
3	Clerical	\$ 108.00
4	Construction Project Manager I	\$ 119.00
5	Construction Project Manager II	\$ 126.00
6	Construction Project Manager III	\$ 150.00
7	Construction Project Manager IV	\$ 171.00
8	Construction Project Manager V - Dept Manager	\$ 200.00
9	Designer/Detailer I	\$ 172.00
10	Designer/Detailer II	\$ 190.00
11	Drone Operator	\$ 124.00
12	Engineer Intern	\$ 120.00
13	Engineer I - Project Engineer/Non-PE PM	\$ 140.00
14	Engineer II - Project Manager	\$ 162.00
15	Engineer III - Senior Project Engineer	\$ 190.00
16	Engineer IV - Senior Project Manager	\$ 206.00
17	Engineer V - Department Manager	\$ 254.00
18	Engineer VI - Principal Engineer*	\$ 260.00
19	Environmental Specialist	\$ 100.00
20	Intern	\$ 75.00
21	Project Coordinator	\$ 145.00
22	Right of Way I - ROW Technician	\$ 89.00
23	Right of Way II - Project Manager/Buying Agent	\$ 123.00
24	Right of Way III - Senior Project Manager	\$ 156.00
25	Surveyor I - Survey Technician I	\$ 85.00
26	Surveyor II - Survey Technician II	\$ 93.00

27	Surveyor III - Party Chief I	\$ 116.00
28	Surveyor IV - Party Chief II	\$ 146.00
29	Surveyor V - Project Surveyor	\$ 161.00
30	Surveyor VI - Construction Survey Manager	\$ 191.00
31	Surveyor VII - Design Survey Manager	\$ 229.00
32	Utility Coordinator I	\$ 80.00
33	Utility Coordinator II	\$ 176.00

NOTES:

1. The base rate shown will be multiplied by a factor of 1.5 for overtime rates (over 8 hrs. per day).
2. Same rates will apply for travel time.
3. Motel expenses will be reimbursed at the rate charged to USI Consultants, Inc.
4. Per Diem expense will be \$30.00 per night per individual.
5. Mileage Rates will be \$0.58 per mile (Federal Mileage Rate)
6. Unmanned Aircraft System (UAS/Drone) Rate will be \$225.00 per hour in 2022 and \$250.00 per hour in 2023.

4. EXCEPT AS HEREIN MODIFIED, CHANGED AND SUPPLEMENTED, ALL TERMS OF THE ORIGINAL AGREEMENT BETWEEN THE DESIGN CONSULTANT AND THE SUBCONSULTANT SHALL CONTINUE IN FULL FORCE AND EFFECT.

IN WITNESS WHEREOF, the parties hereto have executed this Supplemental Agreement No. 1.

DESIGN CONSULTANT

USI CONSULTANTS, INC.

BY: _____

Philip D. Beer, PE, LS - President

BY: _____

Paul R. Aikins, PE, PS, - Vice President

LOCAL PUBLIC AGENCY

**CITY OF WESTFIELD BOARD OF PUBLIC WORKS
AND SAFETY**

BY: _____

Mayor J. Andrew Cook, Member

BY: _____

Larry Clarino, Member

DATE: 4/5/22

BY: _____

Jim Ake

Date: _____

RESOLUTION NO. 22-107

**RESOLUTION TO OPT BACK IN TO OPIOIDS SETTLEMENT
PURSUANT TO INDIANA CODE 4-6-15-2**

WHEREAS, the City of Westfield, Indiana has been actively engaged in pursuing damages caused by the manufacture, sale, and distribution of opioids through outside counsel in multidistrict litigation; and

WHEREAS, recent legislation amending Indiana Code 4-6-15 (House Bill No. 1193) has been adopted by the Indiana legislature and is awaiting the Governor's signature; and

WHEREAS, The City of Westfield, Indiana, after due consideration of said legislation, has determined that it is in the best interest of its citizens to opt back in to the opioids' settlements under Indiana Code 4-6-15-2.

NOW, THEREFORE, BE IT RESOLVED by The City of Westfield, Indiana that The City of Westfield, Indiana, having considered whether to elect to opt back in to the opioids settlements under Indiana Code 4-6-15-2, hereby resolves that The City of Westfield now exercises its election to opt back in to the opioid settlements, and orders its duly authorized agent to submit a certified copy of this Resolution to the Indiana Attorney General by July 15, 2022. This Resolution shall be effective upon the date amended Indiana Code 4-6-15 (House Bill No. 1193) becomes law.

Duly adopted by the following vote of the members of said The City of Westfield, Indiana this _____ day of _____, 2022.

The City of Westfield, INDIANA

Name and Title

Name and Title

Name and Title

ATTEST:

Name and Title

APPROVED AS TO LEGAL FORM:

_____, Attorney

Resolution to Opt Back In To Opioids Settlement Pursuant to Indiana Code 4-6-15

The City of Westfield, having considered whether to elect to opt back in to the opioids settlements under Indiana Code 4-6-15-2, hereby resolves that the The City of Westfield now exercises its election to opt back in to the opioids settlements, and orders its duly authorized agent to submit a certified copy of this resolution to the Indiana Attorney General by July 15, 2022.

Dated this ____ day of _____, 2022.

The City of Westfield

By: _____
Name and Title

Notice of Election to Opt Back In to Opioids Settlement Under Indiana Code 4-6-15-2

The City of Westfield hereby submits notice to the Indiana Attorney General that it elects to opt back in to opioids settlement pursuant Indiana Code 4-6-15-2(d). The City of Westfield hereby submits the following information pursuant to Indiana Code 4-6-15-2(d):

- (1) The name of the political subdivision electing to opt back in is The City of Westfield:
- (2) The contact information for an individual at this political subdivision who can provide information regarding the decision to opt back in is: _____. Because this political subdivision is represented by counsel in this matter, the political subdivision requests that all communications relating to this decision to opt out be directed to its counsel as follows:

Peter J. Mougey
Levin, Papantonio, Rafferty, Proctor, Buchanan, O'Brien, Barr, & Mougey, P.A.
316 S. Baylen St., suite 600
Pensacola, FL 32503
opioidsettlement@levinlaw.com

- (3) A certified copy of the resolution adopted by this political subdivision evidencing its election to opt back in of the opioids settlement pursuant to Indiana Code 4-6-15-2(d) is attached hereto.
- (4) A copy of the agreement executed between the political subdivision and its private legal counsel that includes a term setting the amount of attorney's fees owed to the private legal counsel is attached hereto.

Dated this ____ day of _____, 2022.

The City of Westfield

By: _____
Name and Title

CERTIFICATION

I, _____, do hereby certify that I have compared the attached copy of the Resolution _____: Resolution to Opt Back In to Opioids Settlement Under Indiana Code 4-6-15-2 with the original which remains of record in my office, and that said copy is a true and complete copy of the original.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of The City of Westfield, Indiana, this ____ day of _____, 2022.

By: _____
Name and Title

STATE OF INDIANA	)	IN THE HAMILTON SUPERIOR COURT
	) SS:	
COUNTY OF HAMILTON	)	CAUSE NO. 29D04-2007-PL-005056
CITY OF WESTFIELD, INDIANA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
BYRON E. AND ELIZABETH S.	)	
MOORE, WELLS FARGO, N.A. and	)	
HORIZON BANK,	)	
	)	
Defendants.	)	

AGREED FINDINGS AND JUDGMENT

The City of Westfield, Indiana (“City”) and Byron E. and Elizabeth S. Moore (the “Moore”), jointly move the Court for entry of judgment in this case. The Court, having examined the record and being duly advised, now FINDS:

1. The City filed its Complaint for Condemnation of Real Property on July 23, 2020 (“Complaint”), seeking to condemn a 0.486-acre fee simple interest in property owned by the Moore (the “Real Estate”).
2. Defendants Wells Fargo, N.A. and Horizon Bank were named because of their potential interests in the Real Estate.
3. All defendants were properly served with summons, the Complaint, and notice as required by statute.

4. The City's Complaint complies with Indiana eminent domain law, and the Court has jurisdiction over the subject matter of this case and the parties herein.

5. On March 26, 2021, the Court appointed appraisers to assess the damages due to the Moores by reason of the City's appropriation, and the appraisers took their oath on April 21, 2021.

6. On May 5, 2021, the Court-Appointed Appraisers filed their Report of Appraisers, finding the total damages due to the Moores by reason of the City's appropriation of the Real Estate to be \$50,700.

7. The Moores filed their Exceptions to the Report of Appraisers and requested a jury trial on the issue on May 11, 2021.

8. Defendant Horizon Bank disclaimed any interest in the Real Estate and was dismissed from this matter on June 11, 2011.

9. Defendant Wells Fargo, N.A. never appeared in this case nor filed objections to the appropriation or exceptions to the Report of Appraisers.

10. On or around June 21, 2021, the City deposited \$50,700 with the Clerk of the Court.

11. On August 19, 2021, the Court entered an Order of Appropriation, entitling the City to appropriate and take possession of the Real Estate.

12. On March 11, 2022, the Court entered an Order granting the Moores' Verified Petition to Withdraw Deposit from the Clerk and ordered the Clerk to make payment of \$42,250 to the Moores.

13. The City and the Moores have come to a resolution of this matter and agree to the City's appropriation of the Real Estate, which is more particularly described and depicted in **Exhibit 1** attached hereto and incorporated by reference herein, and further agree that the total just compensation due to the Moores for the City's appropriation of the Real Estate is \$62,000.

14. This Agreed Findings and Judgment, along with the Order of Appropriation, are sufficient to convey the property interests acquired by the City.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the fee simple interest has been appropriated, and that the City holds and has held, in fee simple, the Real Estate described and depicted in Exhibit 1.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by the Court that the Moores shall have and recover as total just compensation for the City's appropriation, the sum of \$62,000, in full satisfaction of this judgment and any and all claims resulting from the City's acquisition.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED by the Court that the City previously deposited with the Clerk of the Court the sum of \$50,700, as the award

of the Court-Appointed Appraisers, and of which, \$42,250 has already been paid out to the Moores pursuant to the Court's March 11, 2022 Order.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED by the Court that the City shall deposit the additional sum due to the Moores, being \$11,300, with the Clerk of the Court for the benefit of the Moores, which amount, together with the City's previously deposited \$50,700, equals the total amount of just compensation, being \$62,000, in full satisfaction of this judgment and any and all claims resulting from the City's acquisition.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED by the Court that upon receipt of said amount from the City, the Clerk of the Court shall issue payment in the sum of \$19,750 payable to Defendants Bryon E. & Elizabeth S. Moore. The Clerk of the Court shall mail said payment to counsel for the Moores, Sever Storey, LLP, c/o George S. Padgitt, 881 3rd Ave SW, Suite 101, Carmel, IN 46032.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED by the Court that the Moores will execute all documents necessary to perfect the property conveyance and record this Agreed Findings and Judgment, including but not limited to, a real estate sales disclosure form, accounts payable voucher, and W-9.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED by the Court that the City shall have this Agreed Findings and Judgment recorded with the Office of the Recorder of Hamilton County, Indiana, and the City shall pay all recording fees.

IT IS SO ORDERED.

Date: _____

Judge, Hamilton County Superior Court

AGREED TO AND SUBMITTED BY:

CITY OF WESTFIELD INDIANA,
acting by and through its
BOARD OF PUBLIC WORKS

BYRON E. MOORE

ELIZABETH S. MOORE

APPROVED AS TO FORM:

/s/ Chou-il Lee

Chou-il Lee
Taft Stettinius & Hollister LLP
One Indiana Square, Suite 3500
Indianapolis, IN 46204

/s/ Philip D. Sever

Philip D. Sever
Tony D. Storey
SEVER STOREY, LLP
881 3rd Ave SW Suite 101
Carmel, IN 46032

EXHIBIT "A"

Sheet 1 of 1

Project: 196th St. and Grassy Branch
Parcel: 1 Fee Simple
Form: WD-1
Key No.: 29-06-19-000-011.001-014

A part of the South Half of the Southwest Quarter of Section 19, Township 19 North, Range 4 East, Hamilton County, Indiana, and being that part of the grantors' land lying within the right of way lines depicted on the attached Right of Way Parcel Plat, marked EXHIBIT "B", described as follows: Beginning at a point on the south line of said quarter section North 89 degrees 50 minutes 13 seconds West 325.55 feet from the southeast corner of said quarter section, said point of beginning being the southeast corner of grantors' land; thence North 89 degrees 50 minutes 13 seconds West 325.50 feet along said south line to the southwest corner of grantors' land; thence North 0 degrees 00 minutes 53 seconds West 65.00 feet along the west line of grantors' land to point "400" designated on said parcel plat; thence South 89 degrees 50 minutes 13 seconds East 325.50 feet to the east line of the grantors' land to point "401" designated on said parcel plat; thence South 0 degrees 00 minutes 53 seconds East 65.00 feet said east line to the point of beginning and containing 0.486 acres, more or less, inclusive of the presently existing right of way, which contains 0.064 acres, more or less.



This description was prepared for the
City of Westfield on the 13th day of
March 2020

by Val Goldfeder
Valarry M. Goldfeder
Indiana Registered Surveyor
License Number LS2140002

RIGHT-OF-WAY PARCEL PLAT
PREPARED FOR THE CITY OF WESTFIELD, INDIANA

PARCEL: 1
PROJECT: 196th ST
ROAD: 196th ST
COUNTY: HAMILTON
SECTION: 19
TOWNSHIP: 19 N.
RANGE: 4 E.

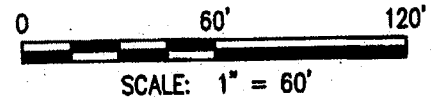
OWNER: MOORE, BYRON E & ELIZABETH S.
INSTRUMENT NO. 8730341 DATED: 8/18/87
INSTRUMENT NO. 9429304 DATED: 6/29/94
INSTRUMENT NO. 200400058279 DATED: 8/05/04

DRAWN BY: J. HENRY 1/15/2020
CHECKED BY: P. McALLISTER 3/13/2020



Hatched area is the approximate taking.

Dimensions shown below are from the above listed record documents.
Centerline stationing tic marks are shown at 50 foot intervals.



Tax Key:
29-06-19-000-011.001-014

16'
Electical Underground
Line Easement
In favor of Public Service
Company of Indiana, Inc.

Residue "A"

1,338.45'
669.20'

669.20'
1,338.3'

400

R/W

401

130

12000

57+00

58+00

325.50'

59+00

196TH ST

Line "196-A"

60+00

325.5'



This plat was prepared from information obtained from the recorder's office
and other sources which were not necessarily checked by a field survey.



Daystar Directional Drilling - Proposal

P.O. Box 1684

Noblesville, IN 46061

Contact: Daystar Directional Drilling

Phone: (317) 773-7455

Email: info@daystardrilling.com

Quote To: WPW
WES

Job Name: MONMOUTH, MONCLAIR
LIBERTY, LEWISTON
WESTFIELD, IN
DRILL/VAC/FUSE/EXCAVATION
ALL MATERIALS
NO PRIVATE LOCATES

Phone:

Email:

22CH0063

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	AMOUNT
10	LIBERTY DR INSTALLATION	1.00	LS	24,675.38	24,675.38
20	LEWISTON DR 1365/1355/1212 INSTALLATION	1.00	LS	24,594.22	24,594.22
30	MONTCLAIR DR INSTALLATION	1.00	LS	28,022.40	28,022.40
40	MONMOUTH DR INSTALLATION	1.00	LS	33,965.94	33,965.94
GRAND TOTAL					\$111,257.94

NOTES:

No excavation or materials. No private utility locates. No traffic/pedestrian control, hard surface cuts/restoration, bonds or permits included in the price. Prices quoted using standard Daystar wage rates. Proposal valid for 90 days.

DDD will notify Indiana 811 but cannot be held responsible for any unmarked public or private utilities or lines. When customer is responsible for existing utility locates they agree to indemnify and hold harmless Daystar Directional Drilling Inc. (hereafter identified as DDD) from any and all actions, claims, cost, loss, damage, attorney fees or liability resulting from the following:

- 1) Damage to existing underground utilities or structures, unless one (1) copy of exact elevation and location measurements are furnished to DDD prior to excavation or unless customer field locates all existing obstacles before works begins
- 2) Damages caused by lack of engineering or customer Supervision unless DDD Provides Supervision on project

Any attachments included herein will be considered part of this proposal.

Payment is due 30 days upon receipt of invoice. Past due invoices are subject to one and a half (1 ½) percent per month service charge, plus reasonable attorney fees necessary to collect past due invoice. If using credit card to pay for invoice there will be a minimum convenience charge of 4%. This serves as notice of intent to file a lien for slow or nonpayment.

Quality workmanship and professionalism are standard. Material if provided by DDD will be as specified. Any alteration or deviation from above specification involving extra cost will be executed only upon written orders, and will become an extra charge over and above the estimate. This was given under normal ground conditions. The price will be adjusted if abnormal conditions exist (i.e. water, sand, rock, under ground utilities or any other obstructions)

Acceptances of Proposal - The signature below indicates acceptance of stated terms, conditions and specifications by both parties. This document may be executed in multiple counterparts and by facsimile signatures.

Authorized Signature Jerry K. Watson Date:

Acceptance Signature: _____ Date: _____ (Customer)

City of Westfield, Indiana ("Political Subdivision")

Amendment to Agreement for Professional Services Relating to Opioids Settlements with McKesson Corporation, Cardinal Health, Inc., AmerisourceBergen Corporation and the Johnson & Johnson Defendants

Whereas, the Political Subdivision entered into an Agreement for Professional Services with Counsel to pursue litigation against various entities, including McKesson Corporation, Cardinal Health, Inc., AmerisourceBergen Corporation and the Johnson & Johnson Defendants, to recover damages caused by the manufacture, sale, and distribution of opioids, and,

Whereas, the Political Subdivision has entered into an Agreement for Professional Services that provides for payment of attorneys' contingency fees from the Political Subdivision's gross recovery from the Opioids' Litigation, and,

Whereas, the presiding Judge over the opioids Multi-District Litigation No. 2804 titled *In Re: National Prescription Opiate Litigation*, the Honorable Dan Aaron Polster, entered an Order allowing enforcement of such contingent fee contracts directly from political subdivisions up to a maximum of 15% ("Order"), and encourages the establishment of a "Back Stop" fund by agreement or legislation, which is designed to incentivize Counsel to waive their right to enforce their contingent fee contracts and apply to the Contingent Fee Fund established under the Current Opioids Settlements and to receive payment from a "Back Stop" Fund and,

Whereas, the State of Indiana created a "Back Stop" Fund in Indiana Code 4-6-15, and,

Whereas, the opioids settlements with McKesson Corporation, Cardinal Health, Inc., AmerisourceBergen Corporation and the Johnson & Johnson Defendants (the "Current Opioids Settlements") permit Counsel also to seek payment of attorneys' fees separately from a Contingent Fee Fund established by those settlements, and,

Whereas, Counsel is waiving their right to enforce their attorneys' fees under the Agreement for Professional Services as to the Current Opioids Settlements and will instead accept payment of a Reduced Attorneys' Fee in connection with the Current Opioids Settlements in the amount of 8.7% of the Political Subdivision's total gross recovery under these settlements to be withheld by the Budget Agency as provided by Indiana Code 4-6-15-5 and paid per the same schedule as the attorney fee payments from the Contingent Fee Fund established under the Current Opioids Settlements and will seek additional payments as provided under the Current Opioids Settlements, and,

Whereas, the Political Subdivision desires to pay the Reduced Attorneys' Fee in connection with the Current Opioids Settlements, to be withheld from its recovery by the Budget Agency as provided by Indiana Code 4-6-15-5, and paid to Counsel by the Budget Agency on the same schedule as the attorney fee payments from the Contingent Fee Fund established under the Current Opioids Settlements, and,

Whereas, it is estimated that the total fee paid to Counsel will represent a substantial discount from the amount owed under the Agreement for Professional Services.

Now therefore, the Political Subdivision and undersigned Counsel, pursuant to Indiana Code 4-6-15, enter into this Agreement to provide for Counsel to receive payment of the Reduced Attorney Fee as set forth in this Agreement as follows:

A. Definitions

As used in this Agreement:

1. "Agreement for Professional Services" means the contingency fee contract entered into by the Political Subdivision and its Counsel for Counsel's representation of the Political Subdivision in Opioid litigation.
2. "Budget Agency" means the budget agency referred to under Indiana Code 4-6-15-5.
3. "Contingent Fee Fund" means the contingency fee fund established in the Current Opioids Settlements.
4. "Counsel" means the private legal counsel on the Agreement for Professional Services.
5. "Current Opioids Settlements" means the Distributor Settlement Agreement with McKesson Corporation, Cardinal Health, Inc., and AmerisourceBergen Corporation, and the Janssen Settlement Agreement with the Johnson & Johnson Defendants.
6. "Johnson & Johnson Defendants" means Johnson & Johnson, Janssen Pharmaceuticals, Inc., OrthoMcNeil-Janssen Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc.
7. "Opioid(s) Litigation" has the meaning set forth in Indiana Code 4-6-15.
8. "Opioid(s)" has the meaning set forth in Indiana Code 4-6-15.
9. "Political Subdivision" means that County, City, or Town identified at the beginning of this Agreement.
10. "Reduced Attorneys' Fee" means the amount of 8.7% of the Political Subdivision's total gross share of the Current Opioids Settlements to be received under Indiana Code 4-6-15-4(a)(2) and Indiana Code 4-6-15-4(a)(4).

B. Scope

1. This Agreement applies only to the Current Opioids Settlements with McKesson Corporation, Cardinal Health, Inc., AmerisourceBergen Corporation and the Johnson & Johnson Defendants. Any amendments to this Agreement shall be submitted to the Budget Agency to withhold and make payments to Counsel as provided by Indiana Code 4-6-15-5.

C. Payment of Attorneys' Fees to Counsel.

1. The foregoing recitals are hereby incorporated into this Agreement.
2. Prior to distributing the Political Subdivision's share of any recovery under the Current Opioids Settlements, the Budget Agency shall withhold the Reduced Attorneys' Fee to be paid to Counsel as provided by Indiana Code 4-6-15-5. The Budget Agency shall compute the amount of the total Reduced Attorneys' Fee for each of the Current Opioids Settlements by multiplying the total gross amount to which the Political Subdivision is entitled under Indiana Code 4-6-15-4(a)(2) and Indiana Code 4-6-15-4(a)(4) for that settlement by 8.7%.
3. For the Current Opioids Settlement with McKesson Corporation, Cardinal Health, Inc., and AmerisourceBergen Corporation, the total gross amount to which the Political Subdivision is entitled under Indiana Code 4-6-15-4(a)(2) and Indiana Code 4-6-15-4(a)(4) is **\$227,623.84**. The Budget Agency shall pay Counsel the Reduced Attorney Fee in the amount of and on the schedule as follows:

Payment No.	Total Fee to Be Paid
1	\$2,084.74
2	\$2,312.92
3	\$4,150.12
4	\$2,813.87
5	\$2,813.87
6	\$2,813.87
7	\$2,813.88
Total	\$19,803.27

4. For the Current Opioids Settlement with the Johnson & Johnson Defendants, the total gross amount to which the Political Subdivision is entitled under Indiana Code 4-6-15-4(a)(2) and Indiana Code 4-6-15-4(a)(4) is **\$53,377.57**. The Budget Agency shall pay Counsel the Reduced Attorney Fee in the amounts and on the schedule as follows:

Payment No.	Total Fee Paid to be Paid
1	\$488.87
2	\$542.38
3	\$973.20
4	\$659.85
5	\$659.85
6	\$659.85
7	\$659.85
Total	\$4,643.85

5. Political Subdivision shall have no further obligation to pay attorneys' fees as to the Current Opioids Settlements.
6. If the amounts paid under a Current Opioids Settlement vary from those set forth in paragraphs C.3 and C.4, the fee and payment schedules shall be updated accordingly to provide accurate payment of the 8.7% Reduced Attorneys Fee.
7. The name, address, telephone number, and email address of the Counsel designated to receive payments of the Reduced Attorneys' Fee from the Budget Agency is:

Peter J. Mougey

Levin, Papantonio, Rafferty, Proctor, Buchanan, O'Brien, Barr, & Mougey, P.A.

316 S. Baylen St., suite 600

Pensacola, FL 32503

opioidsettlement@levinlaw.com

8. All other terms of the Agreement for Professional Services remain in effect.

[This space intentionally left blank.]

Dated this ____ day of _____, 2022.

Political Subdivision: _____

By: _____
Name and Title

By: _____
Name and Title



**City of Westfield Fire Department
Board of Public Works & Safety Report
March 2022 Report**

Contact: Fire Chief

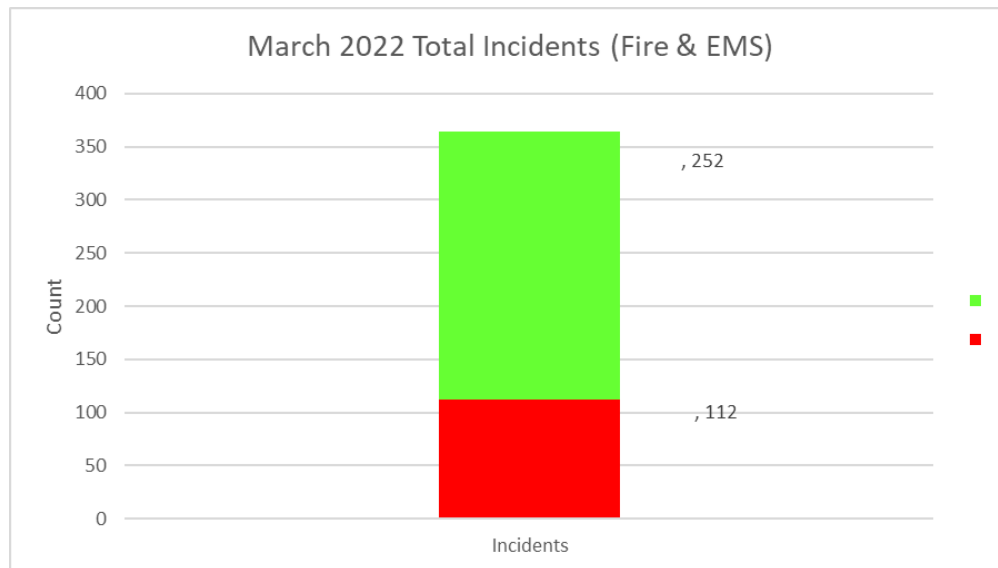
Rob Gaylor

Or Nikki Hartman

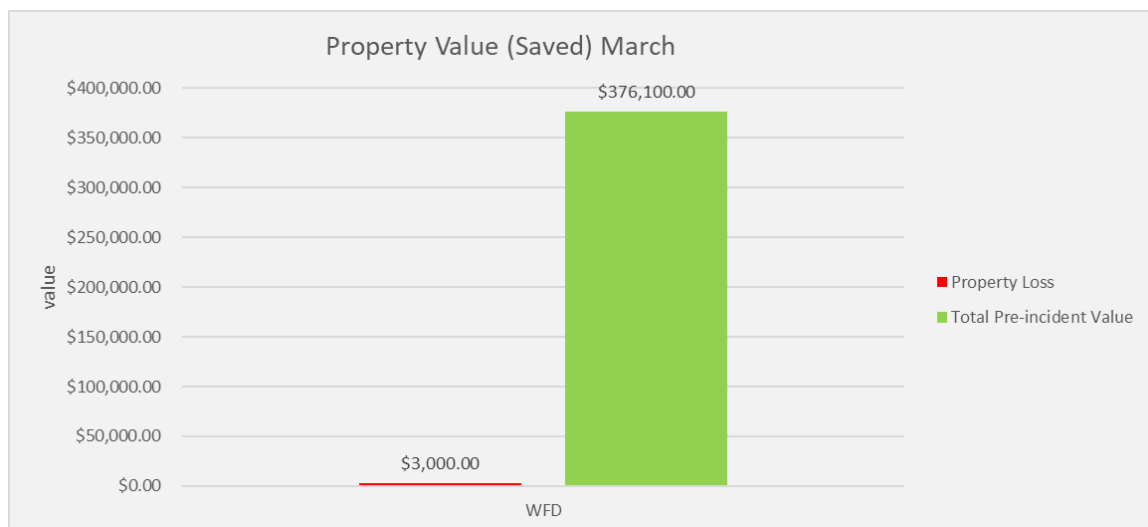
804-3304



Westfield Fire March 2022 Incident Statistics



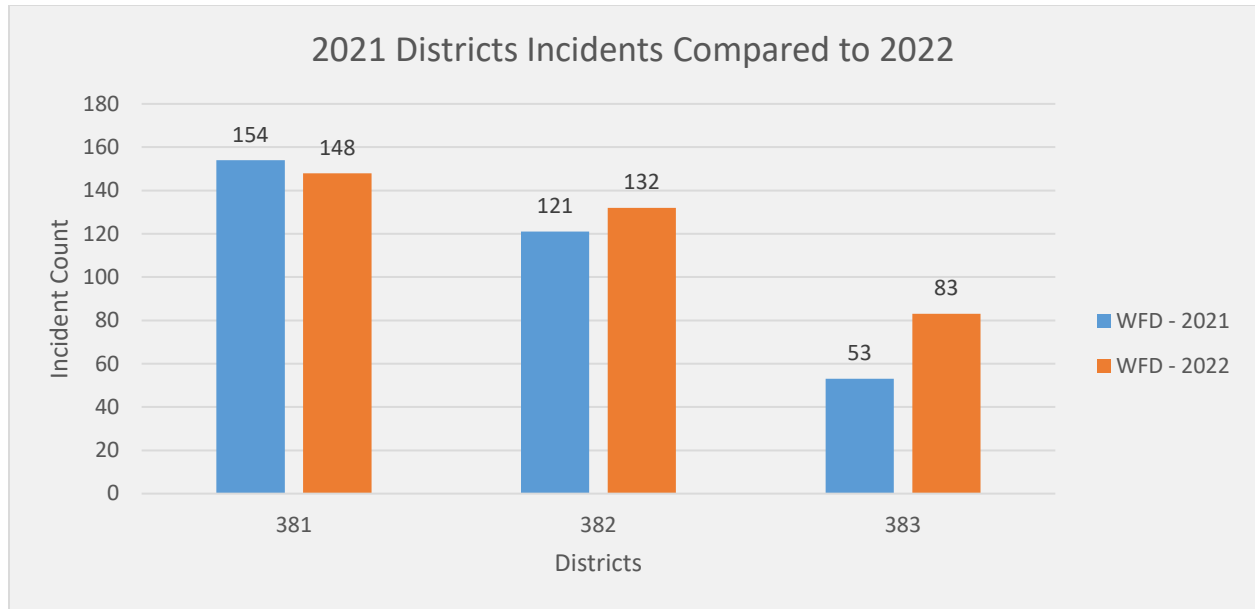
Incident Type	Incident Count	% of total Incident
Fire	112	31%
EMS	252	69%
Total	364	



Property Loss	Total Pre-Incident Value	% of Property value saved
3000	376100	99.20%



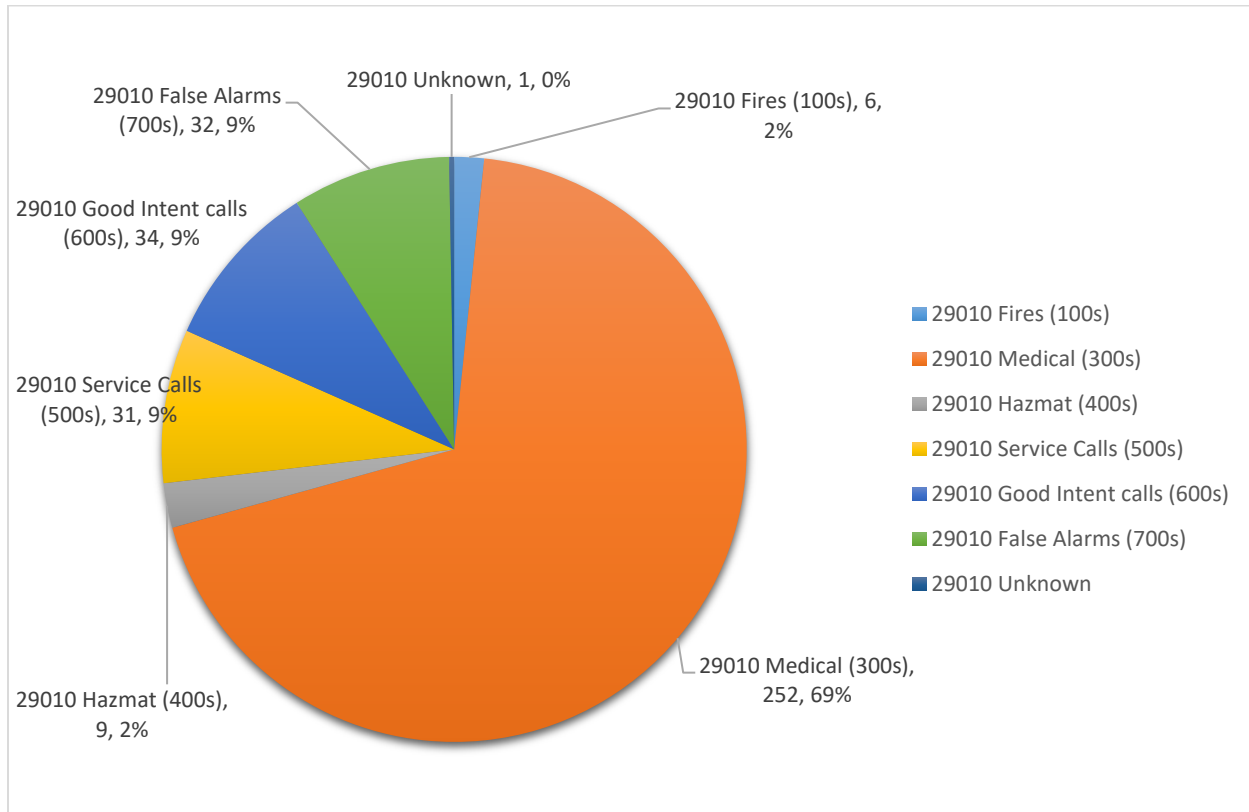
Westfield Fire March 2022 Incident Statistics



District	2021	2022	Increase/decrease	% increase /%decrease
381	154	148	-6	-4%
382	121	132	11	9%
383	53	83	30	57%
Total	328	363	35	11%



Westfield Fire March 2022 Incident Statistics

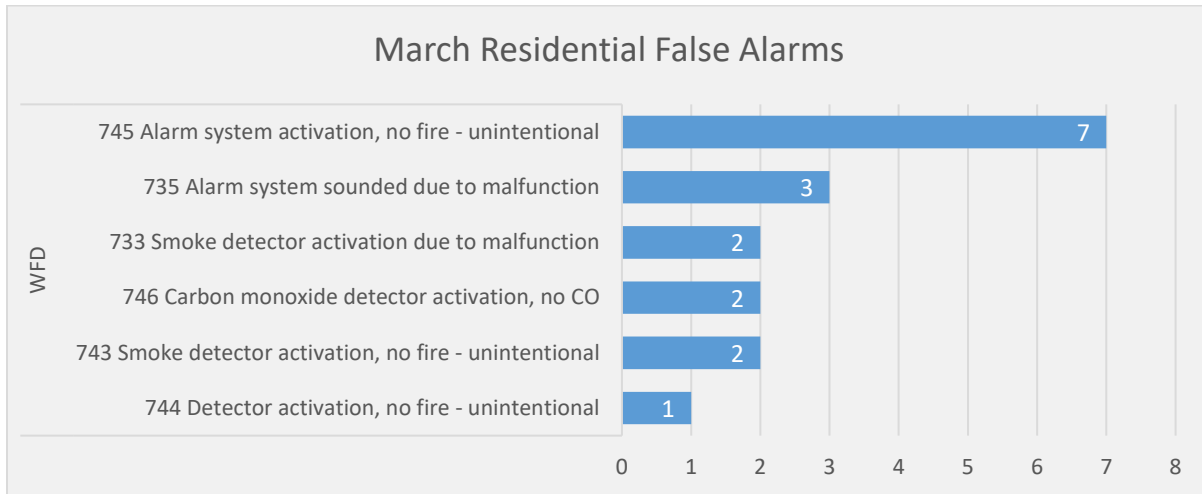


Call Type	Incident Count	% of total calls
Medical	252	69.04%
Good Intent	34	9.32%
Service Calls	31	8.49%
False Alarm	32	8.77%
Hazmat	9	2.47%
Fires	6	1.64%
Unknown	1	0.27%
Total	365	



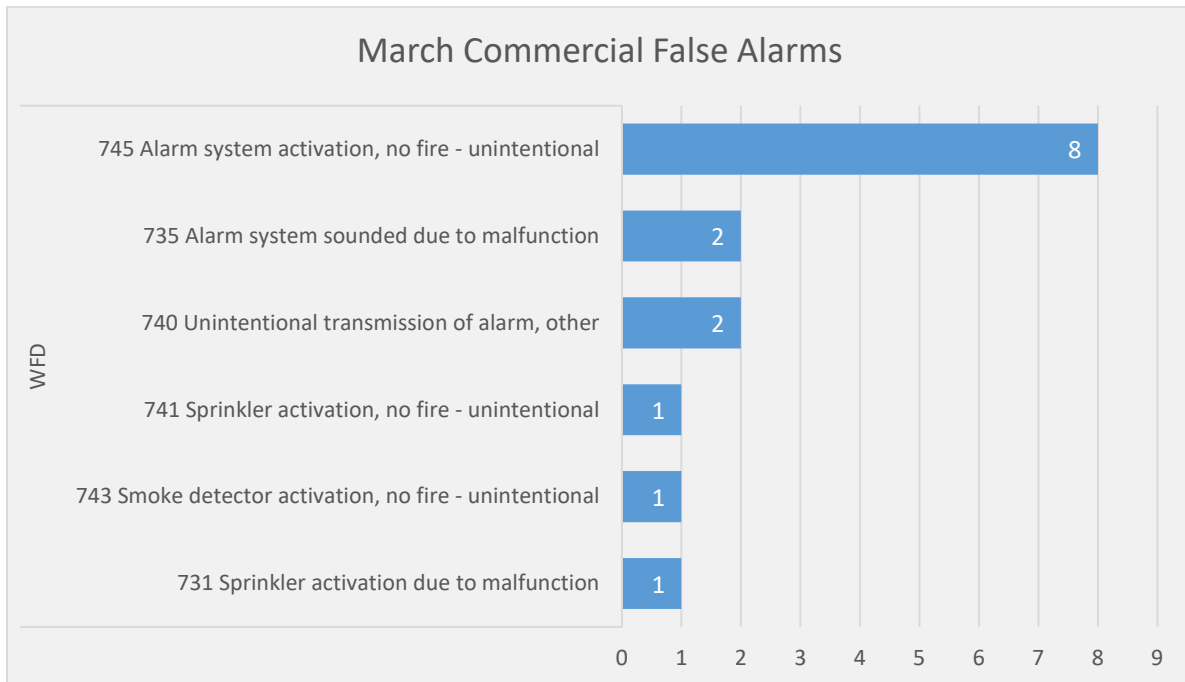
Westfield Fire March 2022 Incident Statistics

False Residential Fire Alarm Calls



17 Residential Alarms

False Commercial Fire Alarm Calls

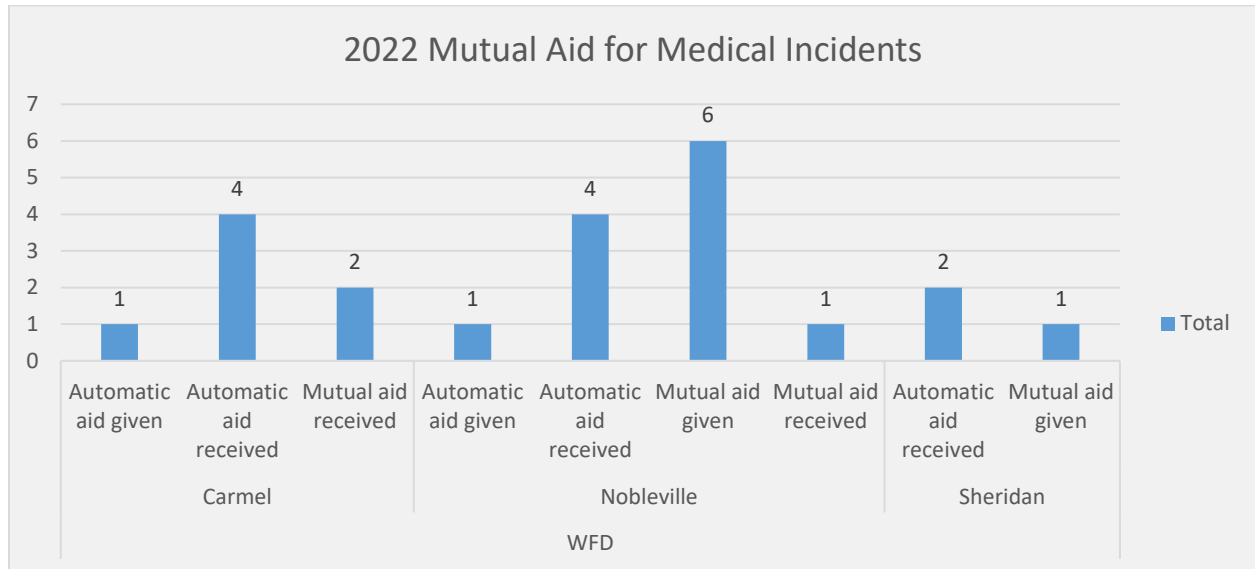


15 Commercial False Alarms

Mutual Aid data



Westfield Fire March 2022 Incident Statistics



EMS

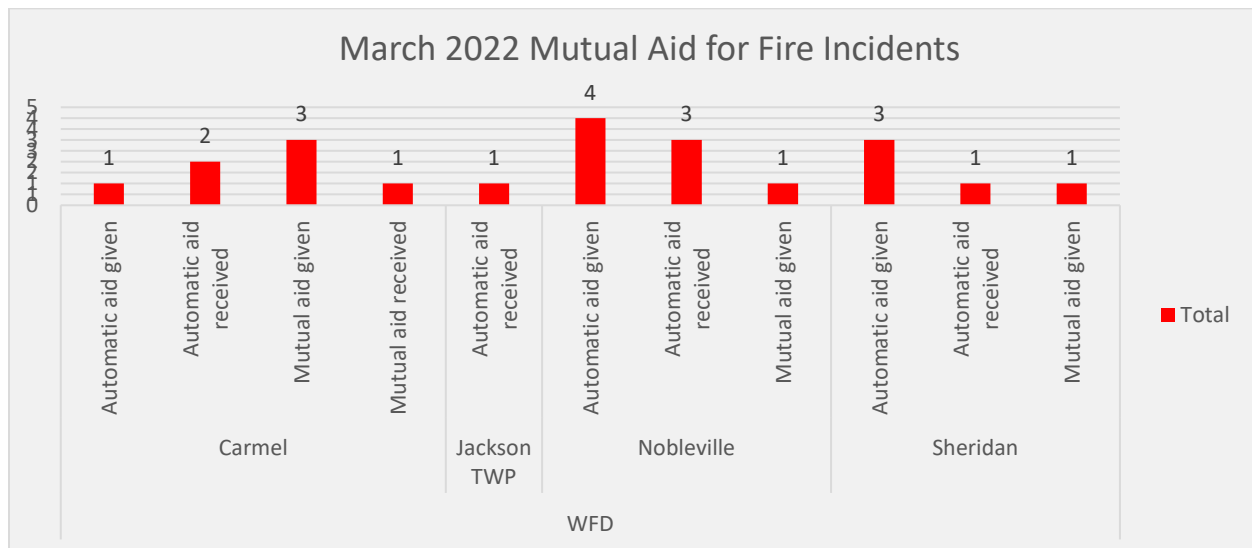
Total 22

	Given	Received
Carmel	1	6
Noblesville	7	5
Sheridan	1	2
Total	9	13



Westfield Fire March 2022 Incident Statistics

Mutual Aid Data Fire Incidents



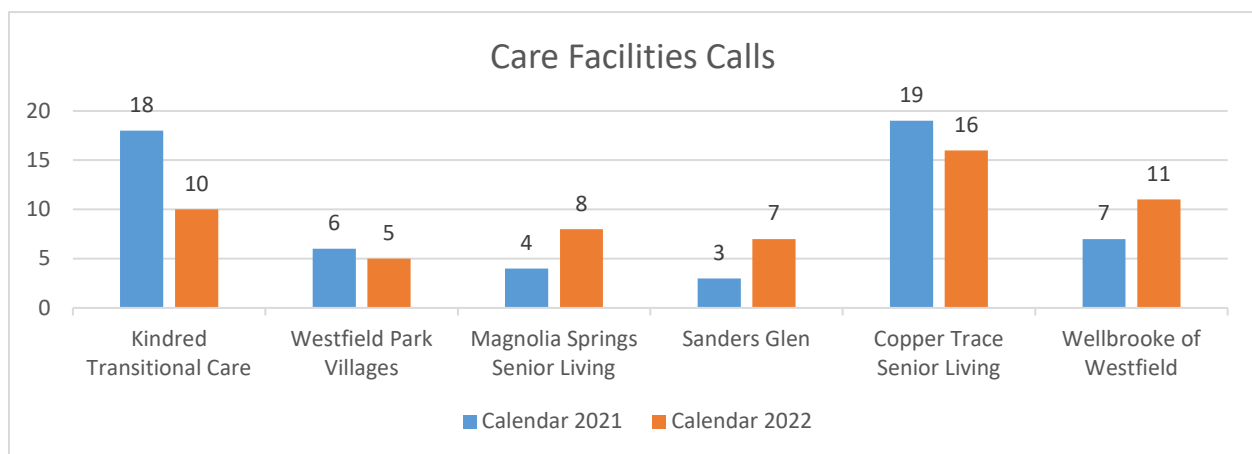
Total 21

	Given	Received
Carmel	4	3
Jackson TWP	0	1
Noblesville	5	3
Sheridan	4	1
Total	13	8



Westfield Fire March 2022 Incident Statistics

Care Facility



Westfield Police Department

Monthly Performance Measures Report



Board of Public Works & Safety

March 2022

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Arrests & traffic	4
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Westfield Police Department

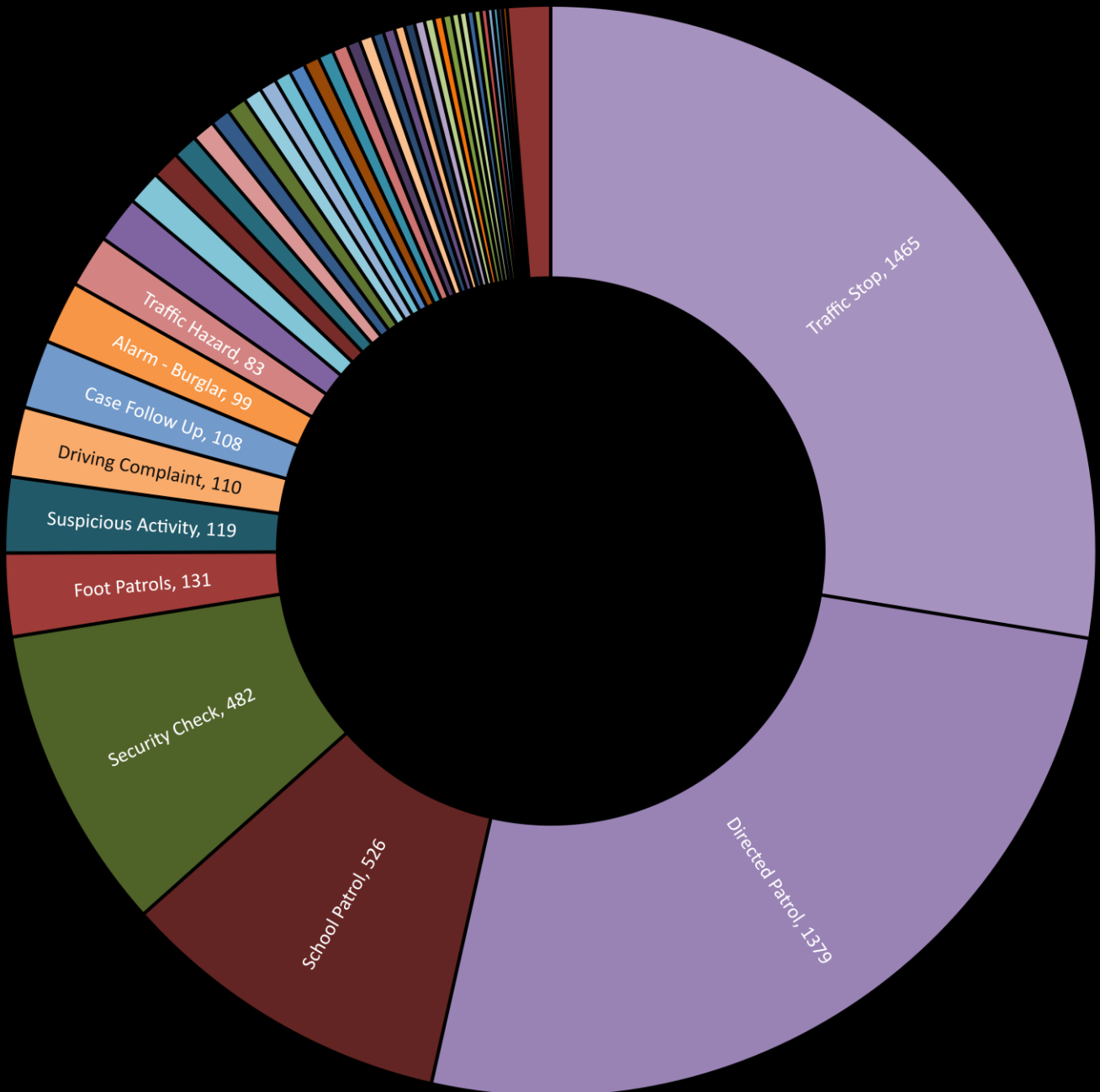
March 2022

Events by Nature

Incident Type	Count	Incident Type Cont.	Count Cont.
911 Hang Up	25	K9 Detail	0
Abandoned Vehicle	10	Kidnapping	0
Abandonment	0	Lock Out	36
Abuse / Neglect	2	Loud Party	1
Accident - Hit & Run PD	11	Mental Emotional - Violent	5
Accident - Hit & Run PI	1	Mental Emotial/Suicide Attempt	1
Accident - Other	1	Mental Person	12
Accident - Property Damage	74	Miscellaneous	16
Accident - Personal Injury	8	Missing Person	4
Accident - Sinking Vehicle	0	Missing Person - PLS	0
Accident - Unknown	1	New Call	0
Accelerator Stuck	0	Nuisance	4
Active Assailant	0	Ordinance Misc.	29
Alarm - Other	2	Parking Complaint	21
Alarm - Vehicle	0	Physical Disturbance	16
Alarm - Burglar	99	Product Contamination	0
Alarm - Hold Up	18	Reckless Activity	0
Animal Bite / Attack	0	Road Rage	3
Animal Complaint	44	Robbery	0
Assist Fire	31	Runaway	3
Assist Other Department	21	School Patrol	526
Assist Public	39	Security Check	482
Battery	7	Sex Offense	7
Bomb Device Found	0	Shooting	0
Bomb Threat	0	Solicitor	1
Burglary	3	Special Detail	0
Carjacking	0	Stabbing	0
Case Follow Up	108	Suicide	0
Civil Dispute	24	Suspicious Activity	119
Criminal Mischief	12	Suspicious Package	2
Damage to Property	0	Suspicious Person	0
Death Investigation	2	Test	0
Directed Patrol	1379	Theft	25
Disturbance	26	Theft - From a Vehicle	4
Domestic	1	Theft - of a Vehicle	3
Driving Complaint	110	Theft Shoplifter	0
Drug Complaint	11	Threat to Life	3
Drug Lab	0	Threatening Suicide	9
Escort	3	Tow Release	0
Fight	0	Traffic Hazard	83
Firearms Shots Fired	0	Transport	0
Foot Patrols	131	Trespassing	15
Found / Lost Property	14	Traffic Stop	1465
Found Person	4	Unknown Call for Police	0
Fraud Prescription	0	VIN Check	54
Fraud / Deception	18	Wanted	4
Harassment	24	Warrant Service	16
Intoxicated Person	5	Weapons Complaint	3
Investigation	14	Welfare Check	31
Investigative Stop	2	Total	5315
Juvenile Complaint	27		

Westfield Police Department
March 2022

Monthly Events by Incident Type
March 2022

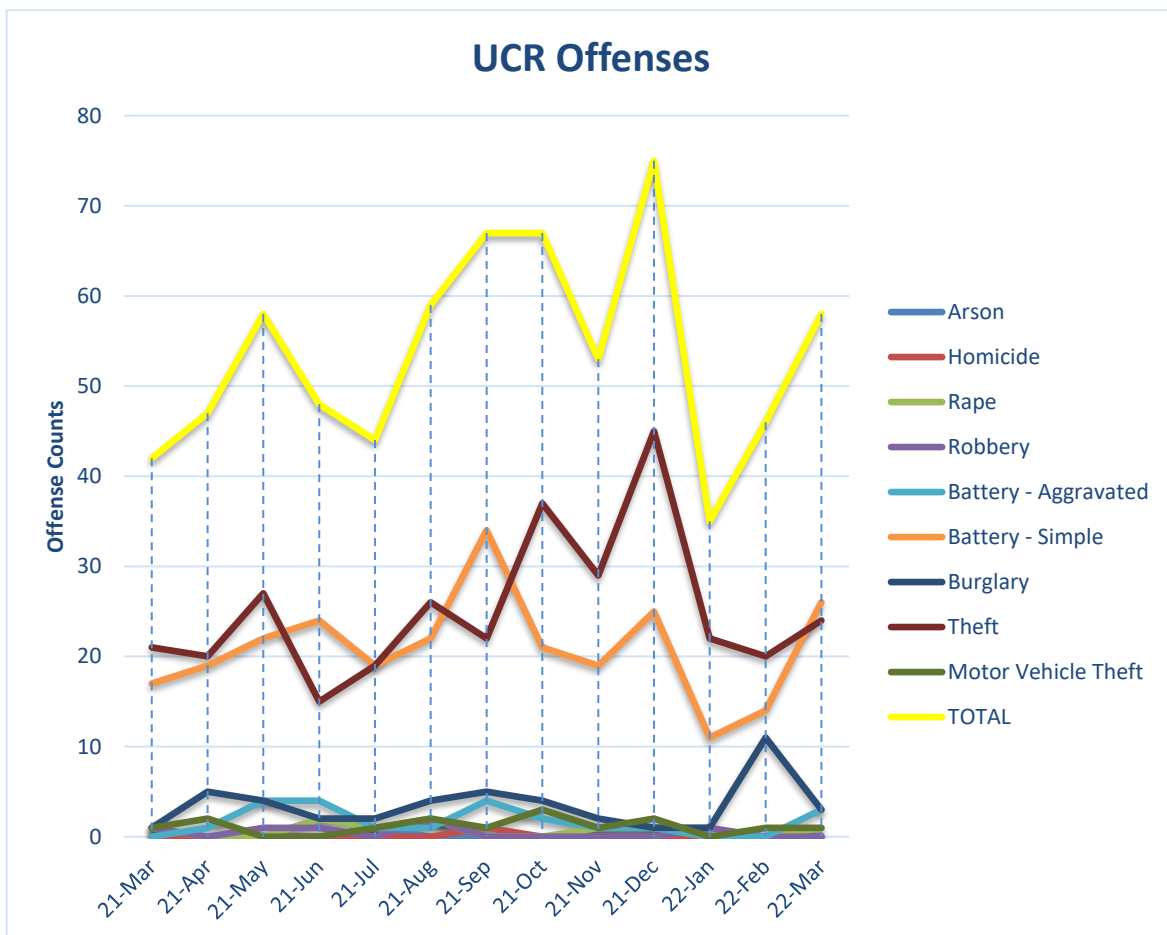


Westfield Police Department

March 2022

UCR OFFENSES

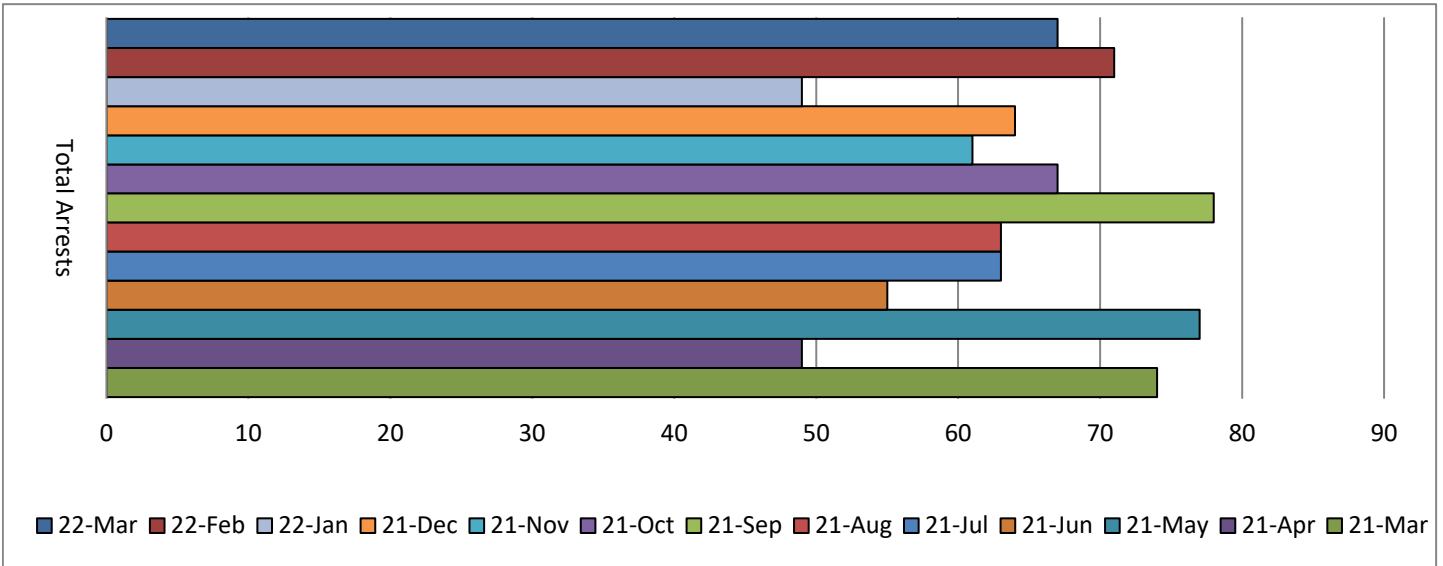
OFFENSE	21-Mar	21-Apr	21-May	21-Jun	21-Jul	21-Aug	21-Sep	21-Oct	21-Nov	21-Dec	22-Jan	22-Feb	22-Mar
Arson	0	0	0	0	1	0	0	0	0	0	0	0	0
Homicide	0	0	0	0	0	0	1	0	0	0	0	0	0
Rape	1	0	0	2	1	2	0	0	1	1	0	0	1
Robbery	1	0	1	1	0	2	0	0	0	0	1	0	0
Battery - Aggravated	0	1	4	4	1	1	4	2	1	1	0	0	3
Battery - Simple	17	19	22	24	19	22	34	21	19	25	11	14	26
Burglary	1	5	4	2	2	4	5	4	2	1	1	11	3
Theft	21	20	27	15	19	26	22	37	29	45	22	20	24
Motor Vehicle Theft	1	2	0	0	1	2	1	3	1	2	0	1	1
TOTAL	42	47	58	48	44	59	67	67	53	75	35	46	58



Westfield Police Department

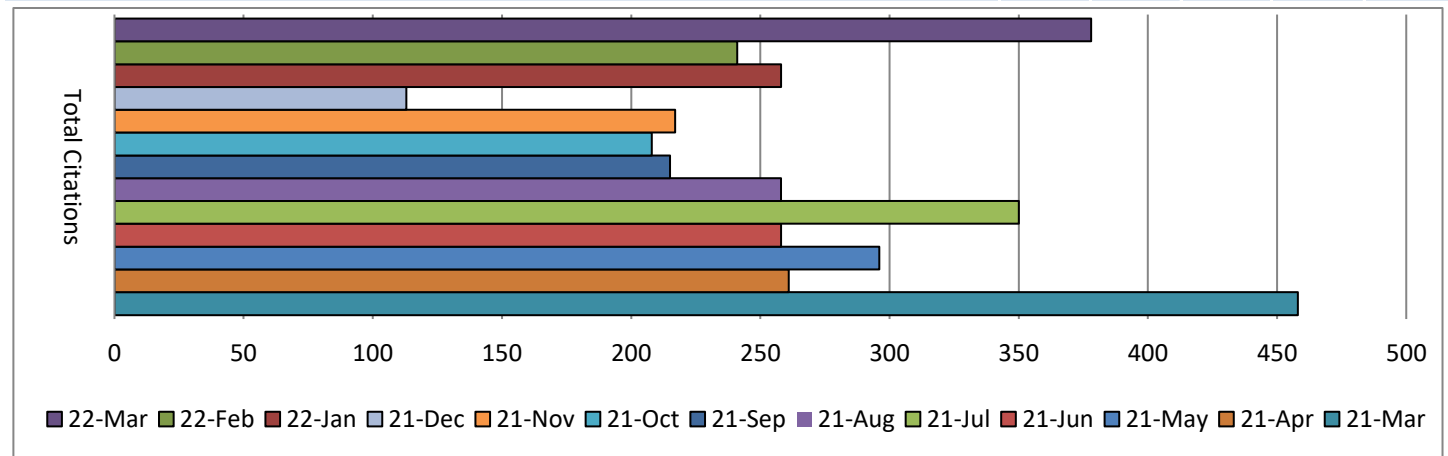
March 2022

Arrest Reports Taken	21-Mar	21-Apr	21-May	21-Jun	21-Jul	21-Aug	21-Sep	21-Oct	21-Nov	21-Dec	22-Jan	22-Feb	22-Mar
Alcohol/ Drug Related	34	13	31	19	21	33	28	19	22	28	25	33	26
Felony Charges	35	63	35	20	34	40	32	26	34	26	15	25	24
Misdemeanor Charges	124	85	88	59	78	80	78	83	74	75	67	92	80
Total Arrests	74	49	77	55	63	63	78	67	61	64	49	71	67



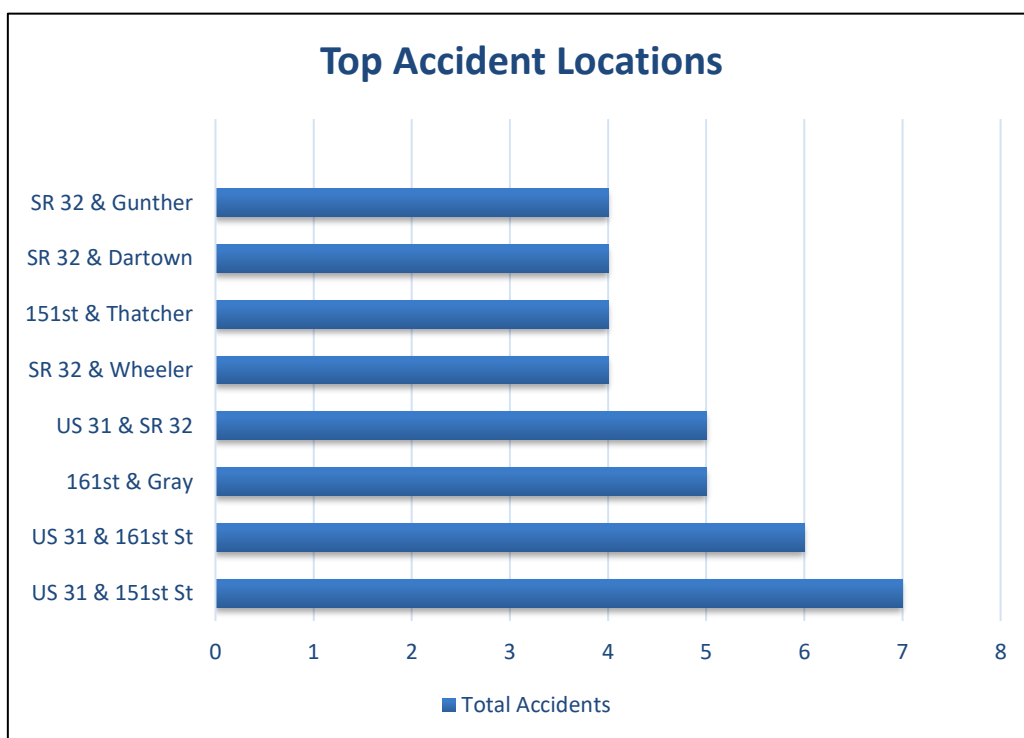
Traffic	21-Mar	21-Apr	21-May	21-Jun	21-Jul	21-Aug	21-Sep	21-Oct	21-Nov	21-Dec	22-Jan	22-Feb	22-Mar
Total Citations	458	261	296	258	350	258	215	208	217	113	258	241	378
Total Written Warning	1184	1118	1048	1027	1553	1158	956	971	1161	788	1225	1225	1476
Total Traffic Accidents	49	52	66	98	54	71	69	78	81	84	75	81	61
Property Damage	45	47	56	82	48	60	59	69	76	77	75	68	54
Personal Injury	4	5	10	16	6	11	10	9	5	7	0	13	7
Fatality	0	0	0	0	0	0	0	0	0	0	0	0	0
Hit and Run*	10	6	9	10	4	11	6	15	6	8	10	10	7

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



Westfield Police Department
March 2022

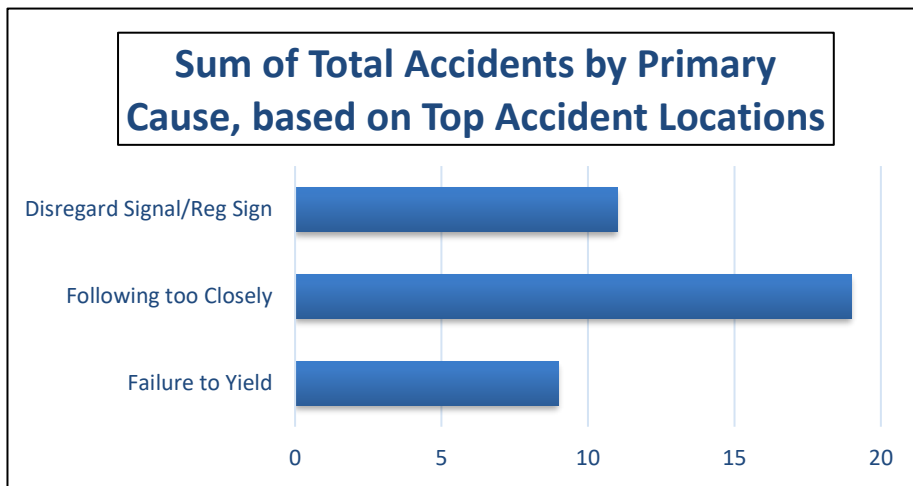
Top Accident Locations		
Accident Location	Total Accidents	Primary Cause
US 31 & 151st St	7	Disregard Signal/Reg Sign
US 31 & 161st St	6	Following too Closely
161st & Gray	5	Failure to Yield
US 31 & SR 32	5	Following too Closely
SR 32 & Wheeler	4	Following too Closely
151st & Thatcher	4	Disregard Signal/Reg Sign
SR 32 & Dartown	4	Following too Closely
SR 32 & Gunther	4	Failure to Yield



Westfield Police Department

March 2022

Primary Cause	Sum of Total Accidents
Failure to Yield	9
Following too Closely	19
Disregard Signal/Reg Sign	11



Westfield Police Department
March 2022

Community Events

3/19/22	Coffee With A COP
3/21/22	Boy Scout Meeting
3/29/22	Open Doors Spring Cleaning Basket



April 27, 2022

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:

- Platinum Properties Management Company, LLC, Bordeaux Walk, Section 3, Bond #4172801, \$37,773.00, Erosion Control
- Chatham Hills, LLP, Chatham Village South Extension, Bond #4172800, \$1,539,839.40, Storm Sewer & SSD, Concrete Curbs, Concrete Median, Arterial Street Pavement, Asphalt Trail & Seeding & Erosion Control
- Chatham Hills, LLP, Section 7A, Bond #1094513, \$88,000.00, Erosion Control
- CCD Serenade, LLC, Bond #LICX1211589, \$65,973.60, Passing Blister Along 161st Street – Construction Improvements
- Lennar Homes of Indiana, Westgate, Section 3, Bond #30154597, \$144,007.00, Concrete Curb
- Lennar Homes of Indiana, Westgate, Section 3, Bond #30154599, \$43,683.00, Asphalt Trail
- Lennar Homes of Indiana, Westgate, Section 3, Bond #SU1183107, \$1,198,704.00, Asphalt Street
- Lennar Homes of Indiana, Westgate, Section 3, Bond #30154600, \$138,233.00, Common Area Sidewalks
- Lennar Homes of Indiana, Westgate, Section 3, Bond #30154598, \$1,253,924.00, Storm Sewer & Subsurface Drains

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:

- CalAtlantic Homes of Indiana, Liberty Ridge, Section 3, Bond #9297382, \$13,078.00, Common Sidewalks
- CalAtlantic Homes of Indiana, Liberty Ridge, Section 3, Bond #9297386, \$43,757.00, Asphalt Trail
- Chatham Hills, LLP, Section 7A, Bond #1087713, \$1,292,489.00, Streets/Curbs, Storm Sewer, Sidewalk, & Erosion Control
- CCD Serenade, Bond #1164901, \$1,021,441.30, Streets/Curbs
- CCD Serenade, Bond #1164902, \$1,217,833.10, Storm
- CCD Serenade, Bond #1164903, \$103,182.75, Sidewalks
- CCD Serenade, Bond #1164904, \$156,730.20, Trail
- CCD Serenade, Bond #1164905, \$110,426.95, Erosion Control
- Pulte Homes of Indiana, Hawthorne Ridge, Section 1, Bond #CMS329396, Erosion Control

- Pulte Homes of Indiana, Bent Creek, Section 1, Bond & Rider #268010122, \$83,223.00, Erosion Control
- Pulte Homes of Indiana, Kimblewick by Del Webb, Section 2, Bond #0240650, \$341,621.54, Asphalt Paving – Local Street Improvements
- Pulte Homes of Indiana, Kimblewick by Del Webb, Section 2, Bond #0240648, \$278,370.95, Storm Sewer
- Pulte Homes of Indiana, Kimblewick by Del Webb, Section 2, Bond #0240647, \$33,196.35, Common Area Sidewalks
- Pulte Homes of Indiana, Kimblewick by Del Webb, Section 2, Bond #0240649, \$32,397.75, Concrete Curb
- Pulte Homes of Indiana, Kimblewick by Del Webb, Section 4, Bond #0241080, \$298,113.61, Asphalt Paving – Local Street Improvements
- Pulte Homes of Indiana, Kimblewick by Del Webb, Section 4, Bond #0240654, \$28,676.45, Concrete Curb
- Pulte Homes of Indiana, Kimblewick by Del Webb, Section 4, Bond #0240653, \$181,634.20, Storm Sewer
- Pulte Homes of Indiana, Kimblewick by Del Webb, Section 4, Bond #0240651, \$12,003.75, Common Area Sidewalks
- Pulte Homes of Indiana, Kimblewick by Del Webb, Section 4, Bond #0240652, \$25,938.00, Asphalt Path
- Gibraltar Construction Corp., Westfield High School, Bond #30052360, \$526,652.50, Storm Sewer

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:

- Harding Asphalt, LLC, d/b/a Harding Group, Wood Wind South, Section 1, Bond #7901090906, \$3,693.00, Concrete Curbs
- Harding Asphalt, LLC, d/b/a Harding Group, Wood Wind South, Section 1, Bond #7901090905, \$20,910.00, Asphalt Paving (Stone, Base, Binder)
- CCD Serenade, Bond #LICX1211590, \$92,858.30, Street & Curb.
- CCD Serenade, Bond #LICX1211591, \$110,712.10, Storm
- CCD Serenade, Bond #LICX1211592, \$9,380.25, Sidewalks
- CCD Serenade, Bond #LICX1211593, \$14,248.20, Trail
- CCD Serenade, Bond #LICX1211594, \$10,038.81, Erosion Control
- E&B Paving, LLC, Kimblewick, Section 2, Bond #30147768, \$34,162.15, Onsite Stone Base, Asphalt Binder, & Asphalt Surface
- Conco Curbs & Paving, LLC, Kimblewick, Section 2, Bond #B3276583, \$3,239.78, Curb & Gutter
- Snider Group, Inc., Kimblewick by Del Webb, Section 2, Bond #B3264103, \$27,837.00, Storm Sewers
- Conco Curbs & Paving, LLC, Kimblewick, Section 2, Bond #B3276584, \$3,319.64, Common Area Sidewalks
- E&B Paving, LLC, Kimblewick, Section 4, Bond #30147769, \$32,405.16, Onsite Stone Base, Asphalt Binder, Asphalt Surface, Path Stone Base, & Surface
- Conco Curbs & Paving, LLC, Kimblewick, Section 4, Bond #B3276585, \$2,867.65, Curb & Gutter
- Snider Group, Inc., Kimblewick by Del Webb, Section 4, Bond #B3264104, \$18,163.00, Storm Sewers
- Conco Curbs & Paving, LLC, Kimblewick, Section 4, Bond #B3276586, \$1,200.38, Common Area Sidewalks
- Gibraltar Construction Corp., Westfield High School, Bond #30156090, \$47,877.50, Storm Sewer

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:

- Wood Wind Residential, Wood Wind South, Section 1, LOC #6264885-82, \$22,218.00, 8' Concrete Path w/ADA Ramps
- Wood Wind Residential, Wood Wind South, Section 1, LOC #6264885-83, \$15,907.00, Common Area Sidewalk
- Wood Wind Residential, Wood Wind South, Section 1, LOC #6264885-81, \$322,362.00, Storm Sewer & SSD
- Wood Wind Residential, Wood Wind South, Section 1, LOC #6264885-80, \$72,955.00, Asphalt Paving Surface Coat, Stone Shoulder, & Striping
- Options Charter School, Reduction to LOC #12506 for Maintenance Purposes, LOC #171640, \$6,070.00, Streets, Curbs, Storm, Sidewalk, & Erosion Control

Letter of Credit Release

The Westfield Public Works Department is recommending that the Board of Public Works and Safety release the following Letters 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:

- Prime Car Wash Six, Prime Car Wash-Wheeler Landing, Cash in Lieu & Development Agreement, Erosion Control & ROW Improvements

THE WESTFIELD BOARD OF PUBLIC WORKS AND SAFETY March 23, 2022

The Westfield Board of Public Works and Safety met on March 23, 2022 at City Hall Assembly Rm. Present were, Jim Ake, Larry Clarino, and Kim Strang, representing the Clerk's Office. The mayor was not present. Chou-il-Lee was on the call.

Jim Ake called the meeting to order at 1:00 PM

CHANGES IN AGENDA

None

AGENDA ITEMS:

Action Item #1: Approval of Minutes from February 23 , 2022

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

Mayor Cook arrived at 1:05 PM

CONTRACTS/AGREEMENTS

Action Item #2: StreetScan & City of Westfield-Automated Asset Management Proposal

Johnathon Nail presented stating this is a tech company that has a software program (Streetlogix) which will provide objective information on the current state of the city's infrastructure and will make maintenance and repair recommendations, including prioritizing roadway projects. StreetScan utilizes 3D imaging technology to measure road defects, such as cracking and bumps. The contract proposal is for \$59,986. This includes a one-time fee of \$5,000.

Mayor Cook made the motion to approve the proposal as written. Larry Clarino seconded.
Vote: Yes-3; No-0. Motion carries.

AGREEMENTS AND/OR MEMORANDUM OF UNDERSTANDING (MOU)

None

PERMIT APPROVAL

None

CONSENT AGENDA:

WPD-Approval to Hire Officers

March Bond Information

Larry Clarino made the motion to approve the consent agenda. Mayor Cook seconded.
Vote: Yes-3; No-0. Motion carries.

DEPARTMENT REPORTS:

Fire- Chief Gaylor

Police- Chief Rush

Public Works- Johnathon Nail

The meeting was adjourned at 1:31 PM

Deputy Clerk-Treasurer

Board of Public Works and Safety

**AGREEMENT BETWEEN
OWNER AND ENGINEER**

THIS AGREEMENT is dated as of the _____ day of _____
in the year 20____, by and between

City of Westfield

2728 East 171st Street

Westfield, Indiana 46074

hereinafter called the **OWNER** and

RESOLUTION GROUP, INC.

7155 Shadeland Station Way, Suite 160

Indianapolis, Indiana 46256

hereinafter called the **ENGINEER**.

WITNESSETH

WHEREAS the **OWNER** requires professional engineering services in connection with the following described Project:

On Call Engineering Services

WHEREAS, the **OWNER** wishes to engage the **ENGINEER** to provide certain services pertaining thereto; and

WHEREAS, the **ENGINEER** represents that it has sufficient qualified personnel and equipment and is capable of performing the professional engineering services described herein; is a corporation qualified to do business in the State of Indiana; and the services described herein will be performed under the supervision of an engineer licensed to practice in the State of Indiana.

The **OWNER** and the **ENGINEER**, in consideration of the mutual covenants hereinafter set forth, agree as follows:

SECTION I SERVICES BY ENGINEER

The services to be provided by the **ENGINEER** under this Agreement are set out in Appendix "A", attached to this Agreement, and made an integral part hereof.

SECTION II INFORMATION AND SERVICES TO BE FURNISHED BY OWNER

The information and services to be furnished by the **OWNER** are set out in Appendix "B", attached to this Agreement, and made an integral part hereof.

SECTION III NOTICE TO PROCEED AND SCHEDULE

The **ENGINEER** shall begin the work to be performed under this Agreement upon receipt of the written notice to proceed from the **OWNER**, and shall deliver the work to the

OWNER in accordance with the schedule contained in Appendix "C", attached to this Agreement, and made an integral part hereof. The **ENGINEER** shall not begin work prior to the date of the notice to proceed.

This Agreement shall be applicable to all assignments authorized by the **OWNER** and accepted by the **ENGINEER** subsequent to the date of execution and shall be effective as to all assignments authorized.

SECTION IV COMPENSATION

The **ENGINEER** shall receive payment for the work performed under this Agreement as set forth in Appendix "D", attached to this Agreement, and made an integral part hereof.

SECTION V MISCELLANEOUS PROVISIONS

Miscellaneous Provisions are set out in Appendix "E", attached to this Agreement, and made an integral part hereof.

SECTION VI GENERAL PROVISIONS

1. **Work Office**

The **ENGINEER** shall perform the work under this Agreement at the following office(s):

7155 Shadeland Station Way, Suite 160, Indianapolis

2. **Employment**

During the period of this Agreement, the **ENGINEER** shall not engage, on a full or part time or other basis, any personnel who remain in the employ of the **OWNER**.

3. **Subletting and Assignment**

The **ENGINEER** and its subcontractors, if any, shall not assign, sublet, subcontract, or otherwise dispose of the whole or any part of the work under this Agreement without prior written consent of the **OWNER**. Consent for such assignment shall not relieve the **ENGINEER** of any of its duties or responsibilities hereunder.

4. **Use and Ownership**

All reports, tables, figures, drawings, specifications, boring logs, field data, field notes, laboratory test data, calculations, estimates and other documents prepared by the **ENGINEER** as instruments of service, shall remain the property of the **ENGINEER**. The **OWNER** shall be entitled to copies or reproducible sets of any of the aforesaid.

The **ENGINEER** will retain all pertinent records relating to the services performed for a period of five (5) years following performance of work, during which period the records will be made available to the **OWNER** at all reasonable times.

The **ENGINEER** agrees that the **OWNER** is not required to use any plan, report, drawing, specifications, advice, map, document or study prepared by the **ENGINEER** and the **ENGINEER**

waives all right of redress against the **OWNER** if the **OWNER** does not utilize same. Any modification, amendment, misuse of any of the **ENGINEER's** work by the **OWNER** or actions that disregard the **ENGINEER's** recommendations to the **OWNER** shall release the **ENGINEER** from any and all liability in connection with such work modified, amended or misused thereafter and the **OWNER** shall not use the **ENGINEER's** name thereon without the expressed approval of the **ENGINEER**.

5. **Compliance with State and Other Laws**

The **ENGINEER** specifically agrees that in performance of the services herein enumerated by **ENGINEER** or by a subcontractor or anyone acting in behalf of either, that each will comply with all State, Federal, and Local Statutes, Ordinances, and Regulations.

6. **Professional Responsibility**

The **ENGINEER** will exercise reasonable skill, care, and diligence in the performance of services and will carry out all responsibilities in accordance with customarily accepted professional engineering practices. If the **ENGINEER** fails to meet the foregoing standard, the **ENGINEER** will perform at its own cost, and without reimbursement from the **OWNER**, the services necessary to correct errors and omissions which are caused by the **ENGINEER's** failure to comply with above standard, and which are reported to the **ENGINEER** within one (1) year from the completion of the **ENGINEER's** services for the Project.

In addition, the **ENGINEER** will be responsible to the **OWNER** for damages caused by its negligent conduct during **ENGINEER's** activities at the Project site or in the field to the extent covered by the **ENGINEER's** Comprehensive General Liability and Automobile Liability Insurance.

The **ENGINEER** shall not be responsible for errors, omissions or deficiencies in the designs, drawings, specifications, reports or other services of the **OWNER** or other consultants, including, without limitation, surveyors and geotechnical engineers, who have been retained by **OWNER**. The **ENGINEER** shall have no liability for errors or deficiencies in its designs, drawings, specifications and other services that were caused, or contributed to, by errors or deficiencies (unless such errors, omissions or deficiencies were known or should have been known by the **ENGINEER**) in the designs, drawings, specifications and other services furnished by the **OWNER**, or other consultants retained by the **OWNER**.

7. **Status of Claims**

The **ENGINEER** shall be responsible for keeping the **OWNER** currently advised as to the status of any known claims made for damages against the **ENGINEER** resulting from services performed under this Agreement. The **ENGINEER** shall send notice of claims related to work under this Agreement to the **OWNER**.

8. **Insurance**

The **ENGINEER** shall at its own expense maintain in effect during the term of this contract the following insurance with limits as shown or greater:

General Liability (including automobile) - combined single limit of \$1,000,000.00;

Worker's Compensation - statutory limit; and

Professional Liability for protection against claims arising out of performance of professional services caused by negligent error, omission, or act in the amount of \$1,000,000.00.

The **ENGINEER** shall provide Certificates of Insurance indicating the aforesaid coverage upon request of the **OWNER**.

9. **Status Reports**

The **ENGINEER** shall furnish a monthly Status Report to the **OWNER** by the fifteenth (15th) of each month.

10. **Changes in Work**

In the event that either the **OWNER** or the **ENGINEER** determine that a major change in scope, character or complexity of the work is needed after the work has progressed as directed by the **OWNER**, both parties in the exercise of their reasonable and honest judgment shall negotiate the changes and the **ENGINEER** shall not commence the additional work or the change of the scope of the work until a supplemental agreement is executed and the **ENGINEER** is authorized in writing by the **OWNER** to proceed.

11. **Delays and Extensions**

The **ENGINEER** 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 Agreement. Any such delays shall be compensated for by an extension of time for such period as may be determined by the **OWNER**, subject to the **ENGINEER's** approval. However, it being understood, that the permitting of the **ENGINEER** 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 **OWNER** of any of its rights herein.

12. **Abandonment**

Services may be terminated by the **OWNER** and the **ENGINEER** by thirty (30) days' notice in the event of substantial failure to perform in accordance with the terms hereof by the other party through no fault of the terminating party. If so abandoned, the **ENGINEER** shall deliver to the **OWNER** copies of all data, reports, drawings, specifications and estimates completed or partially completed along with a summary of the progress of the work completed within twenty (20) days of the abandonment. In the event of the failure by the **ENGINEER** to make such delivery upon demand, then and in that event the **ENGINEER** shall pay to the **OWNER** any damages sustained by reason thereof. The earned value of the work performed shall be based upon an estimate of the portions of the total services as have been rendered by the **ENGINEER** to the date of the abandonment for all services to be paid for on a lump sum basis. The **ENGINEER** shall be compensated for services properly rendered prior to the effective date of abandonment on all services to be paid on a cost basis or a cost plus fixed fee basis. The payment as made to the **ENGINEER** shall be paid as the final payment in full settlement and release for the services hereunder.

13. **Non-Discrimination**

Pursuant to Indiana and Federal Law, the **ENGINEER** and **ENGINEER's** subcontractors, if any, shall not discriminate against any employee or applicant for employment, to be employed in the performance of work under this Agreement, 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 or ancestry. Breach of this covenant may be regarded as a material breach of the Agreement.

14. **Employment Eligibility Verification.**

The **ENGINEER** affirms under the penalties of perjury that it does not knowingly employ an unauthorized alien.

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

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

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

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

15. **No Investment in Iran.**

As required by IC 5-22-16.5, the **ENGINEER** certifies that the **ENGINEER** 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.

16. **Successor and Assigns**

The **OWNER** and the **ENGINEER** each binds themselves and successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither the **OWNER** and the **ENGINEER** shall assign, sublet or transfer their interest in the Agreement without the written consent of the other.

17. **Supplements**

This Agreement may only be amended, supplemented or modified by a written document executed in the same manner as this Agreement.

18. **Governing Laws**

This Agreement and all of the terms and provisions shall be interpreted and construed according to the laws of the State of Indiana. Should any clause, paragraph, or other part of this Agreement be held or declared to be void or illegal, for any reason, by any court having competent jurisdiction, all other causes, paragraphs or part of this Agreement, shall nevertheless remain in full force and effect.

This Agreement contains the entire understanding between the parties and no modification or alteration of this Agreement shall be binding unless endorsed in writing by the parties thereto.

This Agreement shall not be binding until executed by all parties.

19. **Independent Engineer**

In all matters relating to this Agreement, the **ENGINEER** shall act as an independent engineer. Neither the **ENGINEER** nor its employees are employees of the **OWNER** under the meaning or application of any Federal or State Laws or Regulations and the **ENGINEER** agrees to assume all liabilities and obligations imposed in the performance of this Agreement. The **ENGINEER** shall not have any authority to assume or create obligations, expressed or implied, on behalf of the **OWNER** and the **ENGINEER** shall have no authority to represent as agent, employee, or in any other capacity than as set forth herein.

20. **Rights and Benefits**

The **ENGINEER's** services will be performed solely for the benefit of the **OWNER** and not for the benefit of any other persons or entities.

21. **Disputes**

All claims or disputes of the **ENGINEER** and the **OWNER** arising out of or relating to the Agreement, or the breach thereof, shall be first submitted to non-binding mediation. If a claim or dispute is not resolved by mediation, the party making the claim or alleging a dispute shall have the right to institute any legal or equitable proceedings in a court located within the county and state where the project is located.

22. **Limitation of Liability**

To the maximum extent permitted by law, the **OWNER** agrees to limit the **ENGINEER's** liability for the **ENGINEER's** damages to the sum of \$1,000,000.00 limit of Professional Liability insurance. This limitation shall apply regardless of the cause of action or legal theory pled or asserted.

IN WITNESS WHEREOF, the **OWNER** and the **ENGINEER** have signed this Agreement in duplicate. One counterpart each has been delivered to the **OWNER** and the **ENGINEER**.

This Agreement will be effective on _____, 20 ____.

ENGINEER:
RESOLUTION GROUP, INC.

OWNER:

_____ By: _____

Attest: _____ Date: _____

APPENDIX "A"

SERVICES BY ENGINEER

A. PROJECT DESCRIPTION

On-Call Design Services

B. SCOPE OF WORK

On-Call Design Services including but not limited to: Design and Construction Inspection Services. Directions for Services shall be issued through written Task Orders. The Services shall include the furnishing of all labor, tools, equipment, supervision, insurance, and taxes required for the completion of the Services as required by this Agreement, the applicable written Task Order, and/or as necessary to accomplish the results intended.

APPENDIX “B”

INFORMATION AND SERVICES TO BE FURNISHED BY OWNER

The **OWNER** shall, within a reasonable time, so as not to delay the services of the **ENGINEER**:

1. Provide full information as to **ENGINEER's** requirements for the Project.
2. Assist the **ENGINEER** by placing at **ENGINEER's** disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.
3. Examine all studies, reports, sketches, Drawings, Specifications, proposals and other documents presented by **ENGINEER**, obtain advice of an attorney, insurance counselor, and other consultants as **OWNER** deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of **ENGINEER**.
4. Give prompt written notice to the **ENGINEER** whenever the **OWNER** observes or otherwise becomes aware of any defect in the Project.
5. Furnish all existing approvals or permits from all governmental authorities having jurisdiction over the Project. The **ENGINEER** will assist the **OWNER** in identifying and procuring any additional permits associated with this Project.
6. Arrange for access to and make all provisions for the **ENGINEER** to enter upon public and private property as required for the **ENGINEER** to perform services under this Agreement.
7. Obtain necessary easements and right-of-way for construction of the Project, including easement and right-of-way descriptions, property surveys and boundary surveys.
8. Furnish to the **ENGINEER**, as requested by the **ENGINEER** or as required by the Contract Documents, data prepared by or services of others, including exploration and tests of subsurface conditions at or contiguous to the site, drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site.

APPENDIX “C”

SCHEDULE

Schedule will be determined for each Task Order.

APPENDIX “D”

COMPENSATION

A. Amount of Payment

The **ENGINEER** shall receive as payment for the work performed, on the basis of actual hours of work performed at the hourly billing rates noted in APPENDIX “D-1”. The total fee shall not to exceed \$20,000.00 unless a modification of the Agreement is approved in writing by the **OWNER**.

B. Additional Services

Additional Services would be services required in connection with permits, construction inspection, right-of-way engineering, right-of-way acquisition, or any legal action or litigation requiring the testimony and/or services of the **ENGINEER**, or if the **OWNER** or any other local, state, or federal agency shall direct or cause the **ENGINEER** to relocate or redesign the project, or any part thereof. The **OWNER** agrees to compensate the **ENGINEER** for Additional Services on the basis of actual hours of work performed on the project at the hourly billing rates noted in APPENDIX “D-1”. The Hourly Billing Rates include overhead and fixed fee.

In addition to the hourly fees for additional services indicated above, the **ENGINEER** shall be compensated for direct project-related expenses such as job-related travel, permit applications, etc.

Any change in standards, design criteria, or other requirements by governmental units having jurisdiction over the contracted project which requires changes by the **ENGINEER** in the plans shall be considered as Additional Services.

In the event that the **OWNER** retains someone other than the **ENGINEER** to provide construction inspection, then the **OWNER** agrees to compensate the **ENGINEER** for Additional Services rendered in connection with the interpretation of plans, project stake-out or such other services that may be required during the construction phase of the work to be performed.

The **ENGINEER** shall, on behalf of the **OWNER**, cause to be made all borings and subsurface explorations and the analysis thereof; the cost of which shall be paid for by the **OWNER**.

C. Method of Payment

Payment shall be made by the **OWNER** to the **ENGINEER** each month as the work progresses.

APPENDIX “D-1”

SCHEDULE OF COMPENSATION

RESOLUTION GROUP, INC.

2022 HOURLY RATE SCHEDULE

Classification

Hourly Billing Rates

<i>Project Management</i>	
<i>Sr. Project Manager</i>	\$213.54
<i>Project Manager</i>	\$175.67
<i>Engineering</i>	
<i>Project Engineer</i>	\$175.67
<i>Sr Utility Coordinator</i>	\$174.89
<i>Utility Coordinator</i>	\$83.95
<i>Sr. Designer/CADD</i>	\$115.49
<i>Engineer</i>	\$123.74
<i>Graduate Engineer</i>	\$101.60
<i>Cadd Technician</i>	\$83.95
<i>Land Survey/ROW</i>	
<i>Project Surveyor</i>	\$190.40
<i>Survey Crew Chief</i>	\$99.00
<i>ROW Technician</i>	\$115.49
<i>Survey Specialist</i>	\$93.77
<i>Construction Inspection</i>	
<i>Resident Project Representative</i>	\$232.11
<i>Senior Construction Inspector</i>	\$110.95
<i>Construction Inspector</i>	\$90.09
<i>Environmental/Stormwater</i>	
<i>Certified Stormwater Specialist</i>	\$174.63
<i>Sr. Environmental Scientist</i>	\$123.81
<i>Environmental Scientist</i>	\$98.01
<i>Environmental Technician</i>	\$77.32

The billing rates are effective January 2022 and may be adjusted annually (beginning January 2022) to reflect changes in the compensation payable to the **ENGINEER**.

APPENDIX “E”

MISCELLANEOUS PROVISIONS

None.

MASTER SERVICES AGREEMENT

This is an Agreement made as of this ____ day of _____, 2022, by and between the City of Westfield, herein after referred to as the "CLIENT" and Lochmueller Group, Inc. (CONSULTANT).

WITNESSETH

WHEREAS, CLIENT wishes to retain the CONSULTANT to provide certain Professional Engineering, Surveying, Planning and/or Environmental Services on an "as-needed" basis. The CONSULTANT agrees to undertake and perform these certain services (SERVICES) as may be requested by the CLIENT, all in accordance with the terms and conditions contained herein.

The SERVICES to be performed, the schedule for performance, and the compensation method and amount due the CONSULTANT shall be set forth in TASK ORDERS in the form of which is attached hereto as Attachment "A". Each TASK ORDER shall be duly executed by both parties and shall be subject to the terms and conditions of this Master Services Agreement, except as modified expressly by the TASK ORDER.

This Agreement consists of this document together with Attachment "A" – TASK ORDER FORM and Attachment "B" – Terms and Conditions. This Agreement between the CLIENT and CONSULTANT supersedes all prior written and oral understandings. This Agreement may only be amended, supplemented, modified or cancelled by a duly executed written instrument.

In executing this Agreement, the undersigned also acknowledge their authority to bind the parties to all terms and conditions.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first written.

THE CITY OF WESTFIELD
2706 E. 171ST STREET
WESTFIELD, INDIANA 46074

LOCHMUELLER GROUP, INC.
3502 WOODVIEW TRACE, SUITE 150
INDIANAPOLIS, INDIANA 46268

Andy Cook
Mayor

David A. Henkel, PE
Regional Leader – Central Indiana

Jim Ake
Board Member

ATTEST:

Larry Clarino
Board Member

Jeffrey W. DeWitt, PE, BCEE, Env SP
Director of Water Resources – Principal

ATTEST:

TASK ORDER No. 1

In accordance with the Master Services Agreement between _____, (CLIENT), and Lochmueller Group, Inc. (CONSULTANT), dated this _____ day of _____, this TASK ORDER, with an effective date of _____, _____, is the written authorization to the CONSULTANT to provide the services described herein, in accordance with the attached schedule, and fee.

SCOPE OF SERVICES: The TASK scope of services shall be as described in Section "A" of this TASK ORDER. CONSULTANT shall furnish all labor, materials, supplies, equipment, supervision and services necessary for and incident to the performance of the TASK. CONSULTANT represents that it has thoroughly reviewed the TASK and the Master Services Agreement and that it accepts the TASK and the conditions under which the TASK is to be performed.

CLIENT RESPONSIBILITIES: The CLIENT responsibilities shall be as set forth in Section "B" of this TASK ORDER.

SCHEDULE: The Schedule shall be set forth in Section "C" of this TASK ORDER.

PAYMENT TERMS: Payments to the CONSULTANT shall be as described in Section "D" of this TASK ORDER.

TERMS AND CONDITIONS: The terms and conditions of the Master Services Agreement referenced above shall apply to this TASK ORDER. This TASK ORDER also incorporates all of the terms and conditions required to be included in it by the Master Services Agreement.

CLIENT

LOCHMUELLER GROUP, INC.

3502 WOODVIEW TRACE, SUITE 150
INDIANAPOLIS, INDIANA 46268

Signature

Signature

Print Name and Title

Print Name and Title

ATTACHMENT “A” – SCOPE OF SERVICES

SECTION “A” – DESCRIPTION OF THE WORK

SECTION “B” – OWNER RESPONSIBILITIES

SECTION “C” – SCHEDULE

SECTION “D” – PAYMENTS TERMS

ATTACHMENT "B"

TERMS AND CONDITIONS

1.0 WORK OFFICE

CONSULTANT shall perform the Services at its offices or at such other locations as may be necessary or appropriate.

2.0 SUBCONSULTANTS

If CLIENT requests that CONSULTANT subcontract certain geotechnical services on behalf of the CLIENT, CONSULTANT agrees to do so only as an accommodation to the CLIENT and in reliance upon the CLIENT's assurance that the CLIENT will make no claim to bring any action at law or in equity against CONSULTANT as a result of this subcontracted service. The CLIENT understands that CONSULTANT is neither trained nor knowledgeable in the procedures or results of the subcontractor's services and the CLIENT shall not rely upon CONSULTANT to check the quality or accuracy of their services. In addition, the CLIENT agrees to the fullest extent permitted by law to indemnify and hold CONSULTANT harmless from any damage, liability or cost (including attorneys' fees and costs of defense) arising from the services performed by this subcontractor except only those damages, liabilities or costs caused by the sole negligence or willful misconduct of CONSULTANT.

3.0 STANDARDS OF PERFORMANCE

3.1 The standard of care for all professional services performed or furnished by CONSULTANT under this Agreement will be the care and skill ordinarily used by members of the respective profession practicing under similar circumstances at the same time and in the same locality. CONSULTANT makes no warranties, express or implied, under this Agreement or otherwise, in connection with CONSULTANT's Services.

3.2 CONSULTANT shall be responsible for the technical accuracy of its Services and documents resulting therefrom, and CLIENT shall not be responsible for discovering deficiencies therein. CONSULTANT shall correct any deficiencies CLIENT discovers without additional compensation except to the extent such action is directly attributable to deficiencies in CLIENT-furnished information.

3.3 CONSULTANT shall perform or furnish professional services in all phases of the Project to which this Agreement applies. CONSULTANT shall serve as CLIENT's prime professional for the Project. CONSULTANT may employ such subconsultants as CONSULTANT deems necessary to assist in the performance or furnishing of the Services. CONSULTANT shall not be required to employ any subconsultants unacceptable to CONSULTANT.

3.4 CONSULTANT and CLIENT shall comply with applicable laws or regulations and Client-mandated standards. This Agreement is based on these requirements as of its Effective Date. Changes to these requirements after the Effective Date of

this Agreement may be the basis for modifications to CLIENT's responsibilities or to CONSULTANT's scope of services, time of performance, or compensation.

3.5 CLIENT shall be responsible for, and CONSULTANT may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by CLIENT to CONSULTANT pursuant to this Agreement. CONSULTANT may use such requirements, reports, data, and information in performing or furnishing services under this Agreement.

3.6 CONSULTANT shall not be required to sign any documents, no matter by whom requested, that would result in CONSULTANT's having to certify, guarantee or warrant the existence of conditions whose existence CONSULTANT cannot ascertain. CLIENT agrees not to make resolution of any dispute with CONSULTANT or payment of any amount due to CONSULTANT in any way contingent upon CONSULTANT's signing any such certification.

3.7 CONSULTANT shall not be responsible for the acts or omissions of any contractor(s), subcontractor or supplier, or any of the contractor's agents or employees or any other persons (except CONSULTANT's own employees) at the site or otherwise furnishing or performing any of the contractor's work; or for any decision made on interpretations or clarifications of any contract for construction, Master conditions, supplemental conditions, change orders, and related documents (the "Contract Documents") given by CLIENT without consultation and advice of CONSULTANT.

3.8 All opinions of probable construction cost to be provided by CONSULTANT shall represent the best judgement of CONSULTANT based upon the information currently available and upon CONSULTANT's background and experience with respect to projects of this nature. It is recognized, however, that neither CONSULTANT nor the CLIENT has control over the cost of labor, materials or equipment, over contractor's method of determining cost of services, or over competitive bidding, market or negotiating conditions. Accordingly, CONSULTANT cannot and does not warrant or represent that the proposals or construction bids received will not vary from the cost estimates provided pursuant to this Agreement.

4.0 AUTHORIZED PROJECT REPRESENTATIVES

Contemporaneous with the execution of this agreement, CONSULTANT and CLIENT shall designate specific individuals to act as CONSULTANT's and CLIENT's representatives with respect to the Services to be performed or furnished by CONSULTANT and responsibilities of CLIENT under this Agreement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of each respective party.

5.0 OWNERSHIP OF DOCUMENTS

The CLIENT acknowledges the CONSULTANT's documents, including tracings, drawings, reports, estimates, specifications, field notes, investigations, studies, etc., as the work papers of CONSULTANT's and the CONSULTANT's instruments of professional services. Nevertheless, the final documents prepared under this Agreement shall become the property of the CLIENT upon completion of the services and payment in full of all monies due to CONSULTANT. During the performance of the Services herein provided for, CONSULTANT shall be responsible for any loss or damage to the documents which it caused, herein enumerated, while they are in its possession and any such loss or damage shall be restored at its expense. Full access to the Services during the progress of the Services shall be available to CLIENT. The CLIENT agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless the CONSULTANT, its officers, directors, employees and subconsultants (collectively, "CONSULTANT") against any damages, liabilities or costs, including reasonable attorneys' fees and defense costs arising from, or allegedly arising from or in any way connected with, the unauthorized reuse or modification of the documents by CLIENT or any person or entity that acquires or obtains the documents from or through the CLIENT without the written authorization of CONSULTANT.

Under no circumstances shall the transfer of ownership of CONSULTANT's drawings, specifications, electronic files or other instruments of service be deemed a sale by CONSULTANT, and CONSULTANT makes no warranties, either express or implied, of merchantability and fitness for any particular purpose, nor shall such transfer be construed or regarded as any waiver or other relinquishment of CONSULTANT's copyrights in any of the foregoing, full ownership of which shall remain with CONSULTANT, absent CONSULTANT's express prior written consent.

6.0 ELECTRONIC MEDIA

Data, words, graphical representations and drawings that are stored on electronic media such as computer disks and magnetic tapes, or which are transmitted electronically, may be subject to uncontrollable alteration. CLIENT agrees it may only justifiably rely upon the final hardcopy materials bearing the consultant's original signature and seal.

7.0 ACCESS TO RECORDS

CONSULTANT and its subconsultants shall maintain all books, documents, papers, accounting records and other evidence pertaining to the cost incurred and shall make such materials available at its respective offices at all reasonable times during the period of this Agreement and for three (3) years from the date of final payment under the terms of this Agreement, for inspection by the CLIENT and copies thereof shall be furnished if requested.

8.0 COMPLIANCE WITH STATE AND OTHER LAWS

CONSULTANT specifically agrees that in performance of the Services herein enumerated by it or by a subconsultant or anyone acting in behalf of either, that it or they will exercise customary professional skill and care in its efforts to comply with applicable State, Federal, and Local Statutes, Ordinances and Regulations and assist the CLIENT in obtaining all permits that are applicable to the entry into and the performance of this Agreement.

9.0 ALLOCATION OF RISKS – INDEMNIFICATION

9.1 To the fullest extent permitted by law, CONSULTANT shall indemnify and hold harmless CLIENT, CLIENT's officers, directors, partners, and employees from and against any and all costs, losses, and damages (including but not limited to all reasonable fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of CONSULTANT or CONSULTANT's officers, directors, partners, employees, and its subconsultants in the performance and furnishing of CONSULTANT's services under this Agreement.

9.2 To the fullest extent permitted by law, CLIENT shall indemnify and hold harmless CONSULTANT, CONSULTANT's officers, directors, partners, employees and CONSULTANT's subconsultants from and against any and all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of CLIENT or CLIENT's officers, directors, partners, employees, and CLIENT's consultants with respect to this Agreement or the Project.

9.3 To the fullest extent permitted by law, CONSULTANT's total liability to CLIENT and anyone claiming by, through, or under CLIENT for any cost, loss, or damages caused in part by the negligence of CONSULTANT and in part by the negligence of CLIENT or any other negligent entity or individual, shall not exceed the percentage share that CONSULTANT's negligence bears to the total negligence of CLIENT, CONSULTANT, and all other negligent entities and individuals and shall not exceed the appropriate insurance coverage limits set forth under Item 13.0 of Section V of this Agreement.

9.4 In addition to the indemnity provided under Paragraph 9.2 above, and to the fullest extent permitted by law, CLIENT shall indemnify and hold harmless CONSULTANT and its officers, directors, partners, employees, and CONSULTANT's consultants from and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) to the extent caused by the presence at the site of asbestos,

polychlorinated biphenyls, petroleum, hazardous waste (42 USC Sec. 6903) or radioactive materials (42 USC Sec. 2011) in such quantities or circumstances that may represent a substantial danger to persons or property exposed thereto in connection with the Work (the "Hazardous Environmental Condition"), provided that (i) any such cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than completed Work), including the loss of use resulting therefrom, and (ii) nothing in this Paragraph 9.4 shall obligate CLIENT to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.

9.5 CONSULTANT shall not be responsible for the means, methods and techniques of any construction contractor in the prosecution of its work on a project for which CONSULTANT provides services, nor for the construction contractor(s)' and their subcontractor's safety programs, training or compliance with safety requirements of any federal or state agency.

9.6 Notwithstanding any other provisions of this Agreement to the contrary, CONSULTANT's officers, directors, shareholders, partners, employees or agents shall not be personally liable, regardless of the cause of action asserted including breach of contract, warranty guarantee, products liability, negligence, tort, strict liability, or any other cause pertaining to CONSULTANT's performance or non-performance of the Agreement. CLIENT will look solely to CONSULTANT for its remedy for any claim arising out of or related to this Agreement.

10.0 RESERVED

11.0 STATUS OF CLAIMS

CONSULTANT shall be responsible for keeping the CLIENT currently advised as to the status of any claims made for damages against CONSULTANT which are known resulting from services performed under this Agreement. CONSULTANT shall send notice of claims related to Services under this Agreement to CLIENT within thirty (30) days.

12.0 DISPUTE RESOLUTION - JURISDICTION AND VENUE

If disputes arise between CLIENT and CONSULTANT during the course of the Project, or following completion of the Project, which are not resolved within three (3) weeks after a demand for direct negotiation, the parties agree that all disputes between them arising out or relating to this Agreement or the Project shall be submitted to non-binding mediation, unless the parties mutually agree otherwise, with mediation conducted in a location mutually agreed upon by all parties. If the parties do not agree on a mediator within ten (10) days after demand for mediation, either party may request the American Arbitration Association to appoint a mediator who shall be an attorney having substantial experience in construction law issues. If the mediator is unable to facilitate a settlement of disputes within forty-five (45) days of his/her appointment, the mediator shall issue a written statement to the parties to that effect

and the aggrieved party may then seek relief through litigation. Any such litigation shall be resolved without the assistance of a jury, and each party hereby waives trial by jury in any claim whether in Agreement or tort, at law or in equity, arising out of or in any way related to this Agreement. If the parties are not able to settle the dispute through mediation, then it is understood that both parties hereto agree and consent to the exercise of jurisdiction over any matter or dispute arising in connection with this Agreement in a state court sitting in the state and county in which the project resides.

13.0 WORKER'S COMPENSATION AND LIABILITY INSURANCE

CONSULTANT shall procure and maintain, until final payment by CLIENT for the Services covered by this Agreement, insurance of the kinds and in the amounts hereinafter provided in insurance companies authorized to do such business in the State of Indiana covering all operations under this Agreement whether performed by it or by its subcontractor. CONSULTANT shall furnish a certificate or certificates in a form satisfactory to CLIENT, showing that this section has been complied with. During the term of this Agreement, CONSULTANT shall furnish CLIENT with certificates showing that the required insurance coverage is maintained. The certificate or certificates shall provide that the policies shall not be changed or canceled until ten (10) days written notice has been given to the CLIENT. In the event that such written notice of change or cancellation is given, CLIENT may, at its option, terminate this Agreement and no further compensation shall, in such case, be made to CONSULTANT.

The kinds and amounts of insurance required are as follows:

- 13.1 Policy covering the obligations of CONSULTANT in accordance with the provisions of the Worker's Compensation law. This Agreement shall be void and of no effect unless CONSULTANT procures such policy and maintains it until acceptance of the Services.
- 13.2 Commercial Master Liability Insurance (naming the CLIENT as an additional insured) with limits of liability to be not less than \$1,000,000 per occurrence, including bodily injury and property damage, and not less than \$2,000,000 aggregate.
- 13.3 Commercial Automobile Liability Insurance, including hired or non-owned vehicles with limits of liability of not less than \$1,000,000 for each accident.
- 13.4 Professional Liability Insurance in the amount of at least \$1,000,000 per claim and aggregate.

14.0 CHANGES IN THE SERVICES

In the event the CLIENT requires a change in the Services, after the Services have progressed as directed by the CLIENT, adjustments in compensation to CONSULTANT, and in time for performance of the Services as modified, shall be determined by the CLIENT in consultation with CONSULTANT and CONSULTANT shall not commence the change of scope of the Services until an amendment to this agreement is executed and CONSULTANT is authorized to proceed with the changes of scope in writing by the

CLIENT.

15.0 TERMINATION

The obligation to provide further services under this Agreement may be terminated by either party upon thirty (30) days written notice from receipt in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. If the services of this Agreement are terminated, CONSULTANT shall, upon final payment of compensation due to the CONSULTANT, deliver to the CLIENT all data, reports, drawings, specifications and estimates completed or partially completed and these shall become the property of the CLIENT. The earned value of the Services performed shall be based upon an estimate of the portions of the total services as have been rendered by CONSULTANT to the date of termination and which estimate shall be as made by the CLIENT in consultation with CONSULTANT for all Services to be paid for on a lump sum basis.

16.0 NON-DISCRIMINATION

Pursuant to I.C. 22-9-1-10, CONSULTANT and its subcontractors, if any, shall not discriminate against any employee or applicant for employment, to be employed in performance of the services under this Agreement, 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, handicap, national origin or ancestry. Breach of this covenant may be regarded as a material breach of the Agreement.

17.0 SUCCESSORS AND ASSIGNEES

The CLIENT, insofar as authorized by law, binds itself and its successors, and CONSULTANT binds its successors, executors, administrators and assignees, to the other party of this Agreement and to the successors, executors, administrators and assignees of such other party, as the case may be insofar as authorized by law, in respect to all covenants of this Agreement. Neither party may assign this Agreement, or any right, interests, claim, chose in action, defense or privilege under this Agreement without the written consent of the other party. Subcontracting to subconsultants, normally contemplated by the CONSULTANT as a Masterly accepted business practice, shall not be considered an assignment for purposes of this Agreement.

18.0 ENTIRE AGREEMENT – AMENDMENTS

This Agreement, together with the Appendices attached hereto, constitutes the entire agreement between the parties. This Agreement may only be amended, supplemented or modified by a written document executed in the same manner as this Agreement.

19.0 NON-WAIVER

It is agreed and acknowledged that no action or failure to act by CLIENT or CONSULTANT as to a breach, act or omission of the other shall constitute a waiver of any right or duty afforded either of them under this Agreement, as to any subsequent breach, act or omission of the other nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereof, except as may be specifically agreed in writing. No right conferred on either party under this Agreement shall be deemed waived and

no breach of this Agreement excused unless such a waiver or excuse shall be in writing and signed by the party claimed to have waived such right.

20.0 DURATION OF AGREEMENT

The term of this Agreement shall be effective as of its execution date through December 31, 2022. If the basic Services covered in this Agreement have not been completed in accordance with the Schedule set forth in a specific Task Order executed under this Agreement, through no fault of CONSULTANT, extension of CONSULTANT's services beyond that time shall be revised, through mutual agreement, to include compensation for inflationary adjustments.

21.0 FORCE MAJEURE

Neither party to this Agreement shall be liable to the other party for delays in performing the Scope of Services, or for the direct or indirect cost resulting from such delays, that may result from labor strikes, riots, war, acts of governmental authorities, extraordinary weather conditions or other natural catastrophe, or any other cause beyond the reasonable control or contemplation of either party.

22.0 HAZARDOUS ENVIRONMENTAL CONDITION

22.1 CLIENT represents to CONSULTANT that to the best of its knowledge a Hazardous Environmental Condition does not exist.

22.2 CLIENT has disclosed to the best of its knowledge to CONSULTANT the existence of all asbestos, PCB's, petroleum, hazardous waste, or radioactive material located at or near the Site, including type, quantity and location.

22.3 If a Hazardous Environmental Condition is encountered or alleged, CONSULTANT shall have the obligation to notify CLIENT and, to the extent of applicable laws and regulations, appropriate governmental officials.

22.4 If CONSULTANT's scope of services does not include any services related to a Hazardous Environmental Condition and in the event CONSULTANT or any other party encounters a Hazardous Environmental Condition, CONSULTANT may, at its option and without liability for consequential or any other damages, suspend performance of Services on the portion of the Project affected thereby until CLIENT: (i) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition, and (ii) warrants that the Site is in full compliance with applicable laws and regulations.

22.5 CLIENT acknowledges that CONSULTANT is performing professional services for CLIENT and that CONSULTANT is not and shall not be required to become an "arranger", "operator", "generator", or "transporter" of hazardous substances, as defined in the comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), which are or may be encountered at or near the Site in connection with CONSULTANT's activities under this Agreement.

22.6 If CONSULTANT's services under this Agreement cannot be performed because of a Hazardous Environmental Condition, the existence of the condition shall justify CONSULTANT's terminating this Agreement for cause on thirty (30) day notice.

23.0 RESERVED

24.0 GOVERNING LAW

Where permitted by law, this Agreement shall be interpreted and enforced according to the laws of the State of which the project resides, without resort to its conflict of laws rules.

25.0 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. Also, pursuant to I.C. 22-5-1.7, CONSULTANT must execute an affidavit affirming that the CONSULTANT does not knowingly employ an unauthorized alien and confirming CONSULTANT's enrollment in the Program, unless the Program no longer exists, which Affidavit shall be filed with the CLIENT prior to the execution of this contract.

The CONSULTANT shall require his/her/its SUBCONSULTANTS, who perform work under this Agreement, to certify to the CONSULTANT that the SUBCONSULTANT does not knowingly employ or contract with an unauthorized alien and that the SUBCONSULTANT 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 SUBCONSULTANT.

26.0 INDEPENDENT CONTRACTOR STATUS

During the entire term of this Agreement, CONSULTANT shall be an independent contractor, and in no event shall any of its personnel, agents or sub-contractors be construed to be, or represent themselves to be, employees of the CLIENT.

27.0 SEVERABILITY

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

28.0 HEADINGS

Headings in this Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants, and conditions of this Agreement.

AGREEMENT FOR ENGINEERING SERVICES

This Agreement is entered into as of this ____ day of _____, 2022, (hereinafter referred to as the "effective date of the Agreement"), by and between VS Engineering, Inc. hereinafter called the CONSULTANT located at 4275 N. High School Rd, Indianapolis, Indiana, 46254 and City of Westfield, hereinafter called "Client," located at 2728 East 171st Street, Westfield, Indiana, 46074.

WITNESSETH

WHEREAS, the Client is authorized to make and enter into all contracts or agreements which it determines are necessary or incidental to the performance of its duties and to the execution of the purposes of and the powers granted by the State of Indiana;

WHEREAS, in accordance with its procurement procedures, the Client has determined that it desires to hire CONSULTANT to perform Topographic Survey, complete a Drainage Study, and complete Engineering Design and Construction Plans for roadway improvements along Union Street, Roosevelt Street, Cherry Street, and College Street, as set forth herein; and

WHEREAS, THE CONSULTANT desires to assist the Client as provided herein;

NOW, THEREFORE, in consideration of the premises, the mutual covenants and agreements herein set forth, and the undertakings of each party to the other, the Client and THE CONSULTANT, acting as aforesaid and each binding itself, its successors and assigns, do mutually covenant, promise and agree as follows:

I. SCOPE OF SERVICES

THE CONSULTANT shall, in a professional manner, perform the services set forth in Exhibit A, attached to this Agreement.

II. COMPENSATION

- A. THE CONSULTANT shall be compensated as set forth in Exhibit B for services rendered under this Agreement.
- B. THE CONSULTANT shall promptly bill Client for all professional fees and expenses incurred on a monthly basis, and Client shall make payment in full to THE CONSULTANT within 30 days of the date of each invoice.
- C. If the Client does not make payment in full to THE CONSULTANT within 90 days of the date of an invoice, THE CONSULTANT may suspend services upon 7 days written notice on the basis of non-performance on the part of the Client. When all payments due have been made, THE CONSULTANT will continue its services.

III. PERIOD OF PERFORMANCE

THE CONSULTANT agrees to commence performance of services hereunder upon receipt of a written "Notice to Proceed." Client recognizes that THE CONSULTANT's work and the completion thereof may

be conditioned upon Client's review of THE CONSULTANT's work and/or the timely performance and completion of certain activities by Client. THE CONSULTANT shall not be held liable for delays in performance of services hereunder that arise from causes beyond THE CONSULTANT's reasonable control and without its fault or negligence.

IV. CLIENT RESPONSIBILITY

- A. Client shall identify and coordinate all services to be performed hereunder.
- B. Client will verify that THE CONSULTANT has a complete understanding of the scope of services to be performed hereunder. Client shall provide THE CONSULTANT, in a timely fashion, all information reasonably required for the performance of the services by THE CONSULTANT to be performed hereunder.
- C. Client shall upon execution of the Agreement, designate **Jeremy Lollar, Direct of Public Works**, as coordinator of the project described herein and of the professional services to be performed under this Agreement.
- D. Client shall provide THE CONSULTANT with reasonable access to the premises necessary for the performance of the services required under this Agreement.

V. INDEPENDENT CONTRACTOR

It is understood and agreed that THE CONSULTANT shall provide services under this Agreement as an independent contractor and that during the performance of services under this Agreement, THE CONSULTANT's employees shall not be considered employees of the Client.

VI. TERMINATION

It is hereby agreed that if either party should fail materially to fulfill its obligations under this Agreement, the other party may notify the breaching party of the intent to terminate the contract, in whole or in part, if the breach is not cured as provided in this Article. Such notice to the breaching party shall be given, in the manner required in Article XI of this Agreement, thirty (30) days prior to the effective date of the intended termination and shall identify the breach to be cured. The breaching party shall have thirty (30) days from receipt of the notice to cure the breach identified in the notice. The failure to cure the breach within thirty (30) days shall entitle the nonbreaching party to terminate the Agreement at the end of thirty (30) days. THE CONSULTANT shall use reasonable efforts to minimize fees and expenses upon giving or receiving notice of any intended termination. Client shall pay THE CONSULTANT all fees and expenses accrued for services rendered up to the effective date of any termination.

VII. INSURANCE

THE CONSULTANT shall maintain at THE CONSULTANT's own expense (1) Comprehensive General Liability Insurance, (2) Professional Liability Insurance for negligent acts, errors and omissions and (3) Worker's Compensation Insurance which insurance shall provide coverage for liabilities or claims for

damages resulting from services performed or undertaken by THE CONSULTANT hereunder. Certificates of Insurance shall be furnished to Client upon request of Client.

VIII. CHANGES

Changes or amendments to this Agreement may be made only in writing signed by a duly authorized representative of each of the parties. Changes in scope of the project dictated by the Client and changing conditions of law or schedule delays or other events beyond THE CONSULTANT's reasonable control will require contract price and/or date of performance revisions to reflect such changes or delays.

IX. ASSIGNMENT AND DELEGATION

Neither party shall assign or delegate this Agreement or any right, duties or obligations hereunder to any person and/or entity without prior express written approval to the other.

X. TRADEMARK AND TRADE NAME

Notwithstanding any other provision of this Agreement, neither party shall have the right to use the trademark or trade name of the other without prior written approval of the other.

XI. NOTICES

All notices shall be in writing and be deemed to be given or made when delivered by hand or by regular U.S. mail as follows:

- A. Notices to THE CONSULTANT shall be addressed to: Sanjay B. Patel, P.E., President, 4275 N. High School Rd, Indianapolis, Indiana, 46254.
- B. Notices to the Client shall be addressed to: Jeremy Lollar, Public Works Director, 2728 East 171st Street, Westfield, Indiana, 46074.

XII. GENERAL PROVISIONS

- A. Entire Agreement: This Agreement constitutes the entire agreement between the parties with respect to its subject matter and any prior agreements, understandings, or other matters, whether oral or written, are hereby merged into and made a part hereof, and are of no further force or effect. This agreement may be amended, changed, or supplemented only by written agreement executed by both of the parties hereto.
- B. Conflict: In the event of any conflict, ambiguity or inconsistency between this Agreement and any other document which may be annexed hereto, the terms of this Agreement shall govern.
- C. Waiver: No waiver shall be deemed to have been made by any of the parties unless expressed in writing and signed by the waiving party. The failure of any party to insist in any one or more instances upon strict performance of any of the terms or provisions of this agreement, or to exercise any option of election herein contained, shall not be construed as a waiver or relinquishment for the future of such terms, provisions, option or election, but the same shall

continue and remain in full force and effect, and no waiver by any party of any one or more of its rights or remedies under this Agreement shall be deemed to be waiver of any prior or subsequent rights or remedy hereunder or at law. All remedies afforded in this Agreement shall be taken and construed as cumulative; that is, in addition to every other remedy available at law or in equity.

- D. Severability: If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the applications of such term or provisions of this Agreement shall be valid and enforced to the fullest extent permitted by law.
- E. Captions: Captions and paragraph headings are inserted only as a matter of convenience and in no way define, limit, or describe the scope or intent of this Agreement.
- F. Governing Law: This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana.

XIII. ENGAGING IN ACTIVITIES WITH IRAN

By signing this Agreement, THE CONSULTANT certifies that it is not engaged in investment activities in the country of Iran as forth in I.C.5-22-16.5.

XIV. NON-DISCRIMINATION

THE CONSULTANT agrees:

- A. That in the hiring of employees for the performance of work under this Agreement or any subagreement hereunder, no consultant, or subconsultant, nor any person acting on behalf of such consultant, or subconsultant, shall, by reason of race, religion, color, sex, national origin or ancestry, discriminate against any citizen of the State of Indiana who is qualified and available to perform the work to which the employment relates;
- B. That no consultant, subconsultant, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this Agreement on account of race, religion, color, sex, national origin or ancestry;
- C. That the Client may deduct from the amount payable to THE CONSULTANT a penalty of Five Dollars (\$5.00) for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the Agreement;
- D. If there is a second or any subsequent violation of the terms or conditions of this section, then this Agreement may be cancelled or terminated by the Client and all money due or to become due hereunder will be forfeited.

XV. EMPLOYMENT ELIGIBILITY VERIFICATION

THE CONSULTANT affirms it does not knowingly employ unauthorized aliens. THE CONSULTANT shall enroll in and verify the work eligibility status of all its newly hired employees through the E-Verify

program as defined in I.C. 22-5-1.7-3. THE CONSULTANT is not required to participate should the E-Verify program cease to exist. THE CONSULTANT shall not knowingly employ or contract with any unauthorized alien. THE CONSULTANT shall not retain an employee or contract with a person whom THE CONSULTANT learns is an unauthorized alien. THE CONSULTANT shall require all of its subconsultants, who perform work under this Agreement to certify to THE CONSULTANT that the subconsultant does not knowingly employ or contract with unauthorized aliens and that the subconsultant has enrolled and is participating in the E-Verify program. However, the subconsultant is not required to participate if the subconsultant is self-employed and does not employ any employees. THE CONSULTANT agrees to maintain this certification requirement throughout the duration of the term of its contract with a subconsultant.

IN WITNESS WHEREOF, the parties by their duly authorized representatives have caused this agreement to be executed as of the date first written above.

CITY OF WESTFIELD

VS ENGINEERING, INC.

By: _____
Andy Cook, Mayor

By:  _____
Andrew L. Bender, P.E., Vice President

(Date)

2/16/2022
(Date)

Witness:

By: _____
Jeremy Lollar, Public Works Director

By:  _____
Chris Waidner, P.E., Indiana Transportation Director

(Date)

2/16/2022
(Date)

EXHIBIT A

THE CONSULTANT is pleased to present this proposal to the Client for Topographic Survey, Drainage Study, and Roadway Design of Union Street, Roosevelt Street, Cherry Street, and College Street.

PROJECT DESCRIPTION

THE CONSULTANT will provide services of qualified engineers, surveyors and support personnel as necessary to complete the scope of basic services outlined herein. Work items will include topographic survey, drainage study and storm sewer design, roadway design, and utility coordination.

Union Street Area Roadway Improvements consist of roadway improvements in the following areas:

Union Street, 171st Street to Main Street: Mill and overlay of existing asphalt pavement with new curb & gutter and storm sewer along the east side of the roadway. Project will also add grass buffer between roadway and sidewalk to the extent possible within existing right of way. New storm sewer may utilize existing bioswales along west side of Union Street if it has adequate capacity. West side curb & gutter, path, and bio-swales are to remain.

Roosevelt Street, Union Street to Cherry Street: Mill and overlay of existing roadway to replace existing asphalt and improve drainage as well as widening the roadway. Project will also construct new curb & gutter and new sidewalk, and will delineate the roadway from the adjacent parking lots and development. The radii at the intersections with Union Street and Cherry Street will be improved to accommodate fire department ladder trucks.

College Avenue, Union Street to Cherry Street: Mill and overlay of existing roadway to replace existing asphalt and improve drainage, as well as widening the roadway. Project will also construct new curb & gutter and new sidewalk. The radii at the intersections with Union Street and Cherry Street will be improved to accommodate a fire department ladder truck. There will also be a monument or gateway feature to show the entrance to Union Bible College.

Cherry Street, College Avenue to Grassy Branch Creek: Mill and overlay of existing roadway to replace the existing asphalt and improve drainage, as well as widening the roadway. Project will also construct new curb & gutter and sidewalk. A drainage study will be completed to determine size and spacing of a new storm system that will collect water from Roosevelt Street and College Avenue and will have the option to be extended south to 171st street. New storm sewer will outlet into Grassy Branch Creek.

SCOPE OF WORK

A. PROJECT MANAGEMENT & COORDINATION

The CONSULTANT'S proposed Project Manager and key personnel will meet with Client officials and refine project concepts, time schedules, deliverables, budgets and project approach in general. Once the schedule is identified, the required activities will be executed through proper coordination and communication.

The PROJECT will be developed in accordance with the following submittals:

- 30% Design & Drainage Study
- 60% Design
- 90% Design
- Final Bid Package

An in-person progress meeting will be conducted with the Client upon the completion of each submittal.

The CONSULTANT shall prepare a progress report and submit to Client on a monthly basis. The progress report shall identify completed tasks, upcoming tasks, required Client decisions, budget status, etc. The CONSULTANT shall also be available for additional in-person or virtual meetings as necessary throughout the duration of the project.

The CONSULTANT shall conduct coordination meetings with local business owners regarding parking schemes and impacts to existing lots and traffic flows.

B. FIELD TOPOGRAPHIC SURVEY

VS shall survey the project location and provide one set of original field notes, all field survey data collected via electronic media, and one set of master drawings. VS shall obtain section corner, right-of-way, easement, and state plane coordinate information as necessary to satisfactorily complete the basic field survey services described herein within the project limits. This project does not include a location control route survey plat. VS work shall be in accordance with Indiana Code (I.C. 25-21.5); Indiana Administrative Code (865 I.A.C. 1-12); and the Design Manual, Indiana Department of Transportation, Part III, Location Surveys (Survey Manual), a copy of which is on file with INDOT. If there is any conflict between I.C. 25-21.5, 865 I.A.C. 1-12, or the Survey Manual, the order of precedence shall be:

1. I.C. 25-21.5,
2. 865 I.A.C. 1-12, and
3. Survey Manual

Electronic files including the following shall be prepared and submitted by VS as directed by client:

1. Finished plan view of topographic survey in .dwg
2. 1-foot contours in either .dwg format
3. TIN used to create contours as derived from Civil 3D in .xml format
4. Electronic points files in .txt format
5. Existing right-of-way summary
6. Survey Book in .pdf format.

The signature, seal, and registration number of the land surveyor, registered in the State of Indiana, who was in responsible charge of the survey, shall be affixed to the survey book submitted. In addition, VS shall complete the field survey as summarized below and as directed by the Client. The project area to be field surveyed is described as follows:

Survey Limits (See Attachment No. 1)

Union Street

Beginning 50 feet south of the centerline of 171st Street, survey north 2,295 feet to the centerline of State Road 32. The width of survey will be 30 feet on each side of centerline.

Cherry Street

Beginning 50 feet south of the centerline of College Avenue, survey north 1,130 feet to the to a point 50 feet north of the centerline of Grassy Branch Creek. The width of survey will be 30 feet on each side of centerline.

College Avenue

Beginning at the centerline of Union Street, survey east 765 feet to the centerline of Cherry Street. The width of survey will be 30 feet on each side of centerline.

Roosevelt Street

Beginning at the centerline of Union Street, survey east 765 feet to the centerline of Cherry Street. The width of survey will be 30 feet on each side of centerline.

Total Survey includes 4,955 feet by the widths described above.

Obtain last deed of record, subdivision plats, and section or auditor plats for all properties within the project limits from local and state agencies. The property information shall include parcel number, property owner's name, mailing address and property location. VS shall provide a listing of all property information, deeds, plats, and maps.

Send out survey notices together with questionnaires (if applicable) to all property owners within the project area. All survey notices and questionnaires shall be approved by Client prior to distribution.

Establish Primary Horizontal Control within the project limits such that the survey base line(s) can be re-established during construction. The Hamilton County Zone of the Indiana Geospatial Coordinate System will be used.

Establish on-site elevation using, NGS, Indiana DNR, or Hamilton County benchmarks. Set temporary bench marks within the project limits such that elevation datum can be re-established during construction.

Tie in the survey base lines to available USPLSS section corners and/or existing property/right-of-way monumentation. All necessary section corners will be located or re-established to adequately define property lines along the limits of the project during the Right-of-way Engineering or Easement Acquisition phase.

Prepare and an existing right-of-way report based on the research completed per item D. The report will provide a summary of right-of-way widths along the project corridor and document the sources of said right-of-way. Possible sources include:

1. INDOT plans
2. City of Westfield plans
3. Subdivision plats

4. County Surveyor maps/records.
5. Commissioners Records
6. Deed/grant conveyances to the City of Westfield or other public Re-establish existing roadway alignments from plans for previous projects.

Plot right-of-way and property lines based on observed physical evidence and record documents acquired from local government agencies.

Topographic survey data will be collected via aerial and mobile LiDAR system. Features will be extracted from the LiDAR data to compile the topographic survey drawings.

Perform design survey in sufficient detail to obtain topographic data, utilities, buildings, walls, walks, signs, vaults, and natural and man made features, as evidenced by facilities at the ground surface and marks by others, necessary for the development of project plans, including all potentially affected trees, 6 inches in diameter and greater, identified by size.

Take cross sections at specified intervals across the right-of-way of public roadways and or the project limits (as described above) whichever is further out. Additional cross sections shall be taken at intersection of streets, roads, railroads, driveways, etc.

Indicate spot elevations at all finish floors, at each threshold, building edges, insets and projections, exterior platforms, steps (top and bottom treads), corners, building entrances, break in grade, ramps, area ways, tree grates, etc. within the project limits, and at top and bottom of curb.

The CONSULTANT shall furnish a hard copy together with all field survey information collected on electronic media. VS shall also prepare master drawings (1-foot contours) from data collected in topographic survey using AutoCAD Civil 3D and shall submit a hard copy together with electronic form. VS shall delineate and label the location of all buildings, structures, fences, railings, signs, walls, walks, paved areas, curbs and other permanent structures and existing improvements. VS shall outline all building edges, insets and projections, and below grade structures such as vaults, basements, and areaways where applicable, as evidenced by facilities at the ground surface and marks by others.

C. DRAINAGE STUDY, DESIGN AND PERMITTING

Drainage Study

CONSULTANT shall complete and provide, at a minimum, the following to Client and any appropriate regulatory agency for review as part of the Drainage Study:

Report identifying the following:

1. Major findings of the previous drainage design along Union St.
 - i. If documentation on the existing storm sewer is not available, additional effort to verify the existing capacity is required, which is not included in this scope of services.
2. Up to three potential stormwater service alternatives and/or alignments. Description of each alternative and relevant details of each including but not limited to the pros and cons of each.
3. Identification of easements or ROW, if necessary
4. Cost of each alternative
5. Viability of existing downstream outlets

6. Alternative layout and exhibits
 - i. Existing storm sewer layout with utilities
 - ii. Existing topography
 - iii. Proposed alternative layouts

Drainage Design

CONSULTANT shall identify and provide design criteria, calculations, and quantities at each design submittal for critical storm events. Major items include:

1. Hydrology of the watershed
2. Proposed project release rates
3. Required capacity for future upstream connections
4. Peak flood elevations
5. Gutter spreads at inlets
6. Coordinate and/or avoid utility conflicts
7. Scour and erosion control measures
8. Identification of easements or ROW, if necessary
9. Field visit

Design Assumptions

1. No detention modeling or design is necessary. Future development is assumed to meet release rates requirements, likely through the use of onsite detention.
2. The existing design or drainage report from the improvements on the west side of Union Street are available and provide sufficient data on which to base the new design.

Drainage Drawings and Specifications

CONSULTANT shall prepare drawings and specifications for each design submittal as needed to communicate the design intent and progress.

Permitting

CONSULTANT shall prepare all necessary permit and/or approval documents, submit to Client for review and forward for approval to the appropriate government agencies, departments, or utilities having jurisdiction over the applicable work including, but not limited to IDEM, EPA, IDNR, USCOE, INDOT, the County, and the City. Consultant shall respond to all concerns and comments to acquire the necessary permits and approvals for any submittal during any phase of the Project. Permits and approvals included in the scope of the project include:

Construction in a Floodway Permit – IDNR

Coordinate with resource agencies, including IDNR and US Coast Guard, to determine permitting needs.

Coordinate with design team to avoid and minimize impacts, and get final impact calculations.

Prepare application packet to include State Form 42946, Non-Modeling Worksheets; No Change in

Effective Cross Section Flow Area State Form 55238, Public Notice State Form 50354, Adjacent Property Owners Listing State Form 52086, project description, location and floodplain mapping, site photos, preliminary plans with erosion and sediment control, agency coordination, and other supporting documentation.

Submit final application for signature and forwarding to resource agencies. Respond to any IDNR comments, excluding mitigation requirements.

Address comments from adjacent landowners as notified through Public Notice.

Submit final application for signature and forwarding to resource agencies. Respond to any IDNR comments regarding mitigation requirements.

Convey permit conditions to Prime/design Consultant for implementation during construction.

1. Assumptions
 - i. The project meets the criteria for a non-modeling assessment No Change in Effective Cross Section Flow Area. Preparation of a hydrologic & hydraulic assessment is not part of this scope.
 - ii. Development of a mitigation plan is not part of this scope.
 - iii. No public meetings or hearings are required.
2. Scope Exclusions
 - i. IDNR Change in Effective Cross Sectional Flow Area non-modeling assessment.
 - ii. Hydrologic & Hydraulic model and/or detailed floodplain analysis.
 - iii. IDNR previous permit research.
 - iv. Coordination meeting with IDEM/USACE regarding ILFP compensatory mitigation for losses of aquatic resources.
 - v. Coordination meeting(s) with IDNR regarding ILFP in order for IDNR to determine required collection fees for advanced credits to meet compensatory mitigation requirements.
 - vi. FQA of the project site.
 - vii. Local permit(s) relating to floodplain impacts.

Construction Stormwater General Permit – IDEM

Develop and submit erosion control plans and Stormwater Pollution Prevention Plan for review by the local reviewing agency.

Coordinate and resolve comments from resource agencies.

Complete and submit permit application and documentation to IDEM.

D. ROADWAY DESIGN

The CONSULTANT shall perform all phases of work described in the Agreement necessary to accomplish the complete design of the project. The PROJECT roadway design elements shall be in accordance with the following reference documents in effect at the time the roadway plans are submitted:

1. Indiana Design Manual, as published by the Indiana Department of Transportation (INDOT).
2. Standard Specification and Recurring Special Provisions, as published by the Indiana Department of Transportation (INDOT)
3. Indiana Design Memoranda, as published by the Indiana Department of Transportation (INDOT)
4. 2011 Indiana Manual on Uniform Traffic Control Devices, as published by the Indiana Department of Transportation (INDOT)
5. A Policy on Geometric Design of Highways and Streets (Green Book), as published by the American Association of State Highway and Transportation Officials (AASHTO).
6. Roadside Design Guide, as published by the American Association of State Highway and Transportation Officials.
7. Right-of-Way Engineering Manual, as published by the Indiana Department of Transportation (INDOT)
8. Americans with Disabilities Act, as published by the United States Department of Justice.

In the event that any design standards within the aforementioned reference documents are changed during the design process, the CONSULTANT shall be entitled to additional compensation as necessary to incorporate design standard changes into the project design.

Client shall accept minimum design criteria values as presented in the AASHTO Green Book.

The CONSULTANT shall develop the appropriate milling and overlay depth, or a variable milling and overlay scheme for each roadway to accommodate existing features as well as the widening of the roadway. New curb & gutter will be designed to carry drainage to be collected by existing or proposed storm sewer structures.

The CONSULTANT will design all concrete sidewalk and curb ramps to accommodate current ADA standards and provide continuous facilities within the project limits, as right of way allows.

The CONSULTANT shall prepare a cost estimate and unit prices for construction in accordance with current practices and shall include all items of work required for the complete construction of the work, including temporary work.

The CONSULTANT shall develop all roadway and erosion control plans in accordance with the aforementioned reference documents.

The CONSULTANT shall prepare all require special provisions necessary for the completion of the work, to be included the Client's standard bid package.

E. BIDDING AND NEGOTIATION

The CONSULTANT will prepare the bid documents for the contractor which will include necessary forms, special provisions etc.

The Bidding services includes following tasks:

1. Prepare a Contract Book for the project
2. Prepare for and Attend Pre-Bid Meeting and Answers Bidder's Questions

The CONSULTANT will provide electronic drawings prior to the construction if those are requested. The CONSULTANT may ask to sign the electronic drawing release form prior to release them.

F. UTILITY COORDINATION

Per Indiana 811 Tickets the following utilities reside within the project limits.

1. Charter / Spectrum aka Bright House
2. CEG Gas
3. CEG Water
4. CEG Sanitary
5. Comcast Cable
6. Duke Energy Electric
7. Duke Energy Telecom
8. Frontier Fiber Optic
9. MCI Fiber Optic
10. Metro Fibernet
11. Westfield Storm Water
12. Windstream Fiber Optic
13. Zayo Fiber Optic

Visual review confirms both sides of Union St. evidence of overhead electric and multiple communication cables with buried communication including Water, Gas and Sewer. Overhead Electric and Communications exists on Cherry St on east side from College Ave to Roosevelt St along with evidence of Water, Gas and Sewer. Underground research will be conducted to reveal other potentials.

CONSULTANT shall coordinate with utilities in accordance with the following tasks from Indiana Administrative Code (IAC) 105 Article 13: Utility Facility Relocations on Construction Contracts.

1. Initial Notice of proposed improvement project
2. Verification of existing utilities
3. Work Plan development
4. Relocation notification

Initial Notice shall contain:

1. Geographical limits of project and general description of work to be done.
2. Anticipated Final Submittal date and Construction date
3. CONSULTANT contact information

Verification of Existing Utilities shall comprise of:

1. Reviewing the accuracy of the field survey plan as to the location of existing facilities with utility.
2. Acquire available depth information of underground facilities from utility.
3. Revisions to plan depicting existing conditions based on direction from utilities.

Work Plan Development shall comprise of:

1. Determine conflicts between existing utility facilities and proposed improvements.
2. Coordinate with utilities to develop plan to mitigate conflicts.
3. Utilize final project design for utility use.
4. Finalize utility work plans.
5. Develop master schedule of utility relocation(s).

Relocation Notification shall comprise of:

1. Notify utility to implement their relocation work plan.

Coordination with Utilities shall comprise of:

1. One (1) Initial Notice per utility.
2. One (1) round of revisions on verification of Existing Utilities per utility.
3. One (1) on-site meeting with utilities in conjunction with project's Preliminary Field Check meeting.
4. One (1) rounds of revision to relocation work plans per utility upon finalization of project design elements associated with utility.
5. General coordination between CONSULTANT and utilities on status of project and utility information.

Reimbursement of utility relocations is not anticipated. If necessary, coordination and preparation of utility reimbursement agreement(s) shall be an additional service.

Use of Subsurface Utility Engineering (SUE) for the confirmation of location (horizontally and vertically) of underground utilities is not anticipated. If necessary, utilization of SUE shall be an additional service.

G. CONSTRUCTION PHASE SERVICES

CONSULTANT to provide support to CLIENT during construction with oversight of Pre-Construction meeting and review of RFIs, shop drawings, change orders, and field visits. No construction inspection effort is included.

H. SCHEDULE

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

All work by the CONSULTANT under this Contract will be completed and delivered to the OWNER for review and approval within the approximate time periods shown in the attached Gantt chart schedule.

1.	Field Survey	75 days after Notice to Proceed
2.	Drainage Report	105 days after Notice to Proceed
3.	30% Design Plans	150 days after Notice to Proceed
4.	60% Design Plans	300 days after Notice to Proceed
5.	90% Design Plans	450 days after Notice to Proceed
6.	Permits	420 days after Notice to Proceed
7.	Final Bid Package	510 days after Notice to Proceed

Schedule assumes 2-week review period after each submittal. See attachment No. 2 Gantt chart schedule, for additional detail.

*** This will serve as general outline of the schedule based on the estimated bid date. It is the intent to start work on this project once NTP is received and if the project is completed early, the CONSULTANT will work with the OWNER to move the project construction to earlier date.

EXHIBIT B

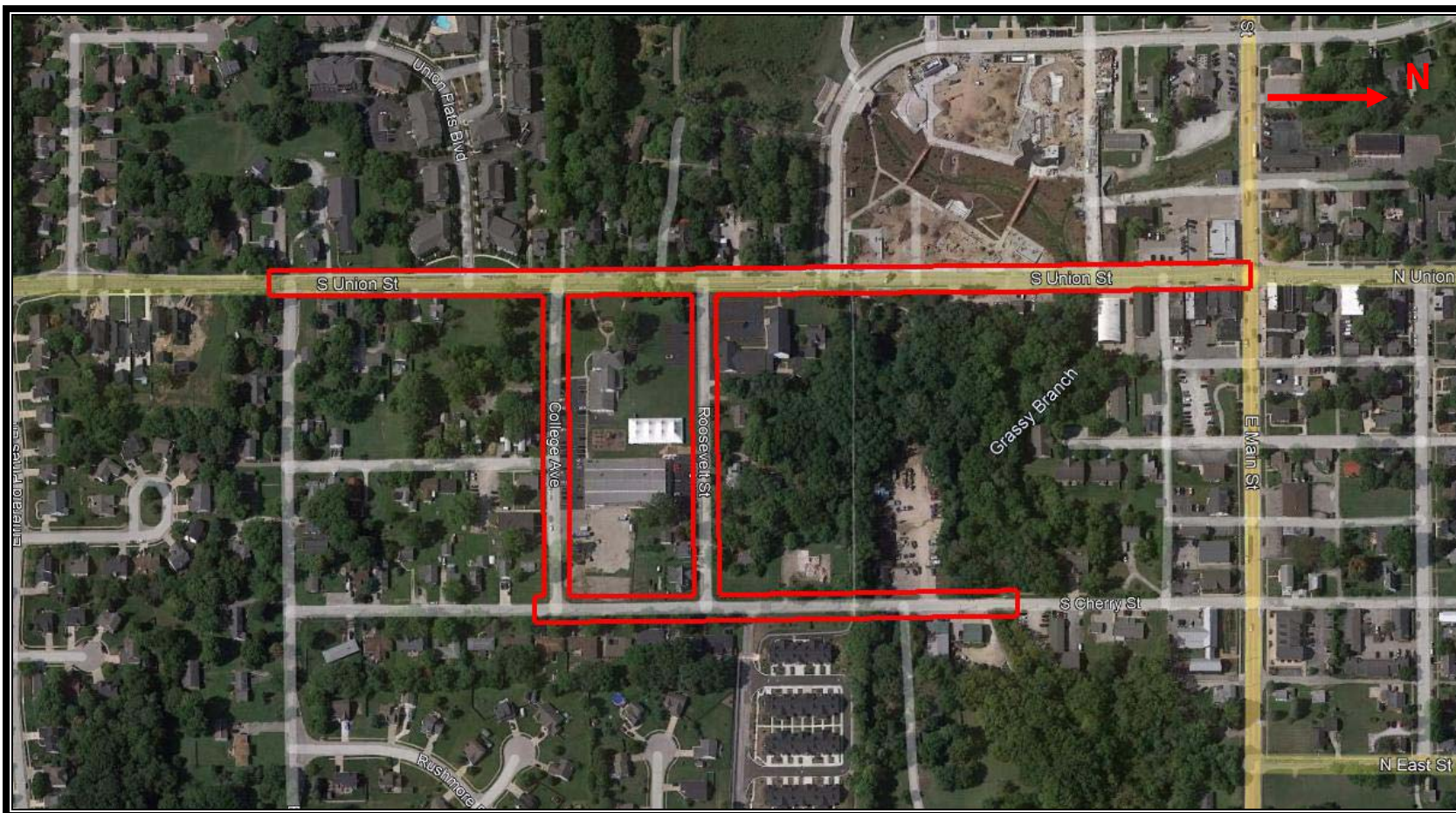
In consideration for the scope of services stated in Exhibit A, THE CONSULTANT requests to be compensated for the work performed under this Contract the total amount not to exceed **\$335,500** unless an amendment is executed by the parties which increases the maximum amount payable.

LUMP SUM ITEMS	COST
Topographic Survey Data Collection	\$51,000
Drainage Study	\$13,500
Design	\$218,200
- Project Administration	\$20,100
- Road	\$160,500
- Storm Sewer	\$33,200
- Bidding & Negotiation	\$4,400
Permitting	\$12,300
SUB-TOTAL	\$295,000

HOURLY FEES ITEM	
Utility Coordination Services	\$25,500
Construction Administration	\$15,000
SUB-TOTAL	\$40,500

TOTAL	\$335,500
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Attachment No. 1



Survey Limits – Union Street

ATTACHMENT NO. 2: GANTT CHART PROJECT SCHEDULE

