



CITY OF WESTFIELD, IN
BoardofPublicWorks_Meeting_Agenda_11_30_2016

Wednesday, November 30, 2016 at 01:00 PM

BOARD OR COMMISSION: Board of Public Works and Safety

MEETING DATE: Wednesday, November 30, 2016 at 01:00 PM

MEETING PLACE: Westfield Public Works- Large Conference 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 - October 26, 2016

Documents: [October 26 Meeting Minutes](#)

Bid Approval

Construction Standards & Specifications Changes

Change Orders

Contracts/Leases

Action Item #2:

Contract Between State of Indiana/INDOT & City of Westfield

Documents: [Westfield Boulevard Connector INDOT LPA Exchange Contract](#)

Action Item #3:

Sleepy Hollow Drainage Improvement

Documents: [Contract Between City of Westfield & Spiars Engineering](#)

Miscellaneous

Action Item #4:

Stormwater User Fee Credits

Documents: [Stormwater Fee Credits](#)

Action Item #5:

Approval for Conditional Offer of Employment of Taylor McCorkle for Position of Police Officer

Agreements and/or Memorandum of Understanding (MOU)

Action Item #6:

Conflict of Interest - Blech

Documents: [COI - Blech](#)

Action Item #7:

Dedication of Public ROW

Documents: [ROW Dedication \(Tanner Edit\)](#)

Action Item #8:

MREC EH Harmony Agreement

Documents: [Harmony Agreement](#)

Consent Agenda

November Bond Information

Documents: [November Bond Information](#)

Department Reports

Fire

WFD October Report

Documents: [October Report](#)

Police

WPD October Report

Documents: [October Report](#)

Public Works

Documents: [DPW October Report](#)

THE WESTFIELD BOARD OF PUBLIC WORKS AND SAFETY October 26, 2016

The Westfield Board of Public Works and Safety met on October 26, 2016 at the Westfield Public Works Conference Room. Present were, Mayor Cook, Randy Graham, Kate Snedeker, Deputy Clerk Treasurer, Kim Strang, and Brian Zaiger, legal counsel.

Randy Graham called the meeting to order at 1:05 P.M.

AGENDA ITEMS:

Action Item #1: Meeting Minutes Consideration for Approval:

Kate Snedeker made the motion to approve the September 28, 2016 meeting minutes as presented and this was seconded by Mayor Cook. Vote: Yes-3; No-0. Motion carried.

BID APPROVAL:

None

Action Item# 2: Ditch Road-Bid Opening

Jeremy Lollar presented stating out of the 6 bids received that E&B Paving, Inc. was the lowest bidder on phase 1 of the 2part project. Request was made to give Jeremy signing authoring for the Ditch Rd. project, not to exceed \$2,560,166.93

Kate Snedeker made the motion to approve the bid and give Jeremy signing authority. Mayor Cook seconded. Vote: Yes-3; No-0. Motion carried.

CONSTRUCTION STANDARDS & SPECIFICATIONS CHANGES:

None

CHANGE ORDERS

None

CONTRACTS/LEASES:

None

MISCELLANEOUS:

Action Item #2: Stormwater User Fee Credits

Mayor Cook made the motion to table this item due to lack of detailed information. Randy Graham seconded.

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

AGREEMENTS AND/OR MEMORANDUM OF UNDERSTANDING (MOU):

Action Item #3: Conflict of Interest Disclosure Statement for Officer Jeff Swiatkowski

Chief Joel Rush presented stating this would allow Herrmann Veterinary Clinic, which employs Officer Swiatkowski's wife, to treat the Westfield Canine dogs. No specific compensation will be gained from Westfield K-9 going to this clinic.

Kate Snedeker made the motion to approve the Disclosure Statement. Mayor Cook seconded.

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

CONSENT AGENDA:

Bond Information

Randy Graham made the motion to approve the Consent Agenda. Kate Snedeker seconded.

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

DEPARTMENT REPORTS:

- **Fire** – No Report
- **Police**- Joel Rush
- **Public Works**- Angie Smitherman

With no further business Randy Graham made the motion to adjourn. Kate Snedeker seconded. The meeting was adjourned at 1:20 P.M.

Deputy Clerk-Treasurer

Board of Public Works and Safety

IN-LIEU OF CONSTRUCTION AGREEMENT

THIS AGREEMENT ("Agreement") is made as of the 30th day of November, 2016, by and between **THE CITY OF WESTFIELD, INDIANA** ("City"), and **MREC EH HARMONY WESTFIELD, LLC**, owner of the property ("Owner").

WHEREAS, Owner is the owner of certain real property located on the north side of 151st Street west of Ditch Road, commonly known as Harmony Section 4, a legal description for which is attached as Exhibit A, and referred to herein as the "Property"; and

WHEREAS, Owner seeks to develop the Property into 108 residential lots. The City approved the construction drawings for said lots on April 20, 2016 ("Approved Construction Plans"). The Approved Construction Plans illustrate passing blisters on the south side of 151st Street opposite the two entries into the Property as required by Section 8.9.D.1 of the Westfield Unified Development Ordinance.

WHEREAS, Owner has attempted unsuccessfully to acquire land from property owners on the south side of 151st Street to construct the passing blisters and has provided the City the support information required by Section 8.9.D.1 of the Unified Development Ordinance.

WHEREAS, City does not wish to pursue eminent domain of the land for the passing blisters at this time, but would like the resources to construct the passing blisters in the future,

WHEREAS, the parties desire to enter into this Agreement in order to confirm the terms of the in-lieu of construction payment.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and conditions contained in this Agreement, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. The parties hereby represent and warrant that the foregoing recitals are accurate and correct and hereby incorporate them in this Agreement.
2. Owner, in-lieu of constructing the two passing blisters on the south side of 151st Street, hereby covenants and agrees to pay to City a one-time fee of Fifty-Four Thousand One Hundred Seventy-Six and 65/100 Dollars (\$54,176.65).
3. The fee comprises the cost of acquiring the land and constructing the passing blisters. Land acquisition cost is based upon the current market rate of the land of the three properties affected by the passing blisters as identified in the appraisals prepared by Will Stump & Associates attached hereto as Exhibit B. Construction costs are based upon proposals provided by independent contractors attached hereto as Exhibit C.

4. These costs are summarized in Table 1 below.

Table 1	
Cost	Description
\$4,350.00	Land acquisition of Kirby property
\$3,300.00	Land acquisition of Allen property
\$5,700.00	Land acquisition of Fesenko property
\$4,964.00	Cost of earthwork for passing blisters
\$6,750.00	Cost of stabilization for passing blisters
\$29,112.65	Cost of asphalt for passing blisters
\$54,176.65	Total Cost

5. City has approved **Owner** to proceed with the construction of the 151st Street entries and roadway improvements as shown on the Approved Construction Plans, minus the passing blisters. **Owner** is endeavoring to complete as much of the entry improvements and 151st Street reconstruction as practicable this season.

6. City agrees building permits will be released as they normally would with the improvements made in Harmony Section 4 and will not withhold building permits in Harmony Section 4 based upon the completion status of the 151st Street improvements.

7. City confirms the improvements made within the existing 151st Street right-of-way by **Owner** qualify as part of the 151st Street Road Improvements available for reimbursement per the Development Agreement between the City and JR Farmer Harmony, LLC, dated January 10, 2013).

8. All of the terms and provision of this Agreement shall be binding upon, inure to the benefits of and be enforceable by, the parties to this Agreement and their respective successors, legal representatives, and assigns.

9. This Agreement shall constitute the entire agreement of the parties with respect to the subject matter of this Agreement. All prior understandings and agreements between the parties with respect to such matters are merged into this Agreement, which alone fully and completely expresses their understanding.

10. This Agreement may not be amended, modified, altered, or changed in any respect, except by a further agreement in writing duly executed by each of the parties to this Agreement.

11. This Agreement shall be governed by the laws of the State of Indiana.

12. On November 30, 2016, the Westfield Board of Public Works and Safety authorized the Director of the Public Works Department to execute this Agreement.

This instrument was prepared by: Bryan D. Stumpf, 11th Street Development, LLC, (317) 721-8279.

I affirm under the penalties for perjury, that I have taken reasonable care to redact each and every Social Security number from this document, unless it is required by law. Bryan D. Stumpf

City of Westfield, Hamilton County, Indiana ("City")

By: _____
Jeremy Lollar, Director
Public Works Department

Date: _____

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the above party, who having been duly sworn acknowledged the execution of the foregoing instrument.

Signature of Notary Public

State of Indiana, County of Hamilton, SS:

Subscribed and Sworn before me this _____ day of _____, 2016.

Printed Name of Notary Public _____

My Commission Expires _____

[Remainder of page intentionally left blank; signature page follows.]

MREC EH HARMONY WESTFIELD, LLC ("Owner")

By: _____
Paul E. Estridge, Jr., Member

Date: _____

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the above party, who having been duly sworn acknowledged the execution of the foregoing instrument.

Signature of Notary Public

State of Indiana, County of Hamilton, SS:

Subscribed and Sworn before me this _____ day of _____, 2016.

Printed Name of Notary Public _____

My Commission Expires _____

[Remainder of page intentionally left blank.]

EXHIBIT A
Legal Description

A PART OF THE NORTHEAST QUARTER AND NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 18 NORTH, RANGE 3 EAST OF THE SECOND PRINCIPAL MERIDIAN, IN WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION, THENCE SOUTH 89 DEGREES 17 MINUTES 41 SECONDS WEST ON AND ALONG NORTH LINE OF SAID SOUTHEAST QUARTER, ALSO BEING ON AND ALONG THE BOUNDARY OF HARMONY SECTION ONE, A RESIDENTIAL SUBDIVISION RECORDED AS INSTRUMENT NUMBER 2014047702 IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA, A DISTANCE OF 310.42 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 89 DEGREES 17 MINUTES 41 SECONDS WEST ON AND ALONG SAID SOUTH LINE 1046.64 FEET TO THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION; THENCE SOUTH 89 DEGREES 01 MINUTE 52 SECONDS WEST ON AND ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 678.57 FEET; THENCE NORTH 00 DEGREES 11 MINUTES 39 SECONDS WEST 1315.85 FEET; THENCE SOUTH 89 DEGREES 07 MINUTES 05 SECONDS WEST 679.24 FEET; THENCE NORTH 00 DEGREES 13 MINUTES 25 SECONDS WEST 823.62 FEET; THENCE NORTH 89 DEGREES 12 MINUTES 17 SECONDS EAST 794.85 FEET; THENCE NORTH 00 DEGREES 13 MINUTES 25 SECONDS WEST 3.82 FEET; THENCE NORTH 89 DEGREES 12 MINUTES 17 SECONDS EAST 285.30 FEET; THENCE SOUTH 00 DEGREES 09 MINUTES 53 SECONDS EAST 108.70 FEET; THENCE NORTH 89 DEGREES 12 MINUTES 17 SECONDS EAST 279.15 FEET; THENCE NORTH 89 DEGREES 16 MINUTES 38 SECONDS EAST 450.00 FEET; THENCE SOUTH 00 DEGREES 09 MINUTES 53 SECONDS EAST 57.15 FEET; THENCE NORTH 89 DEGREES 16 MINUTES 38 SECONDS EAST 518.47 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 655.30 FEET TO THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 16; THENCE NORTH 89 DEGREES 16 MINUTES 38 SECONDS EAST ON AND ALONG SAID NORTH LINE 1751.34 FEET TO THE NORTHEAST CORNER OF SAID SECTION 16; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 414.39 FEET TO A POINT BEING THE NORTHEAST CORNER OF HARMONY SECTION THREE, A RESIDENTIAL SUBDIVISION RECORDED AS INSTRUMENT NUMBER 2015057669 IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA, THE NEXT TWENTY SEVEN (27) COURSES BEING ON AND ALONG THE BOUNDARY OF SAID HARMONY SECTION THREE; (1) THENCE SOUTH 52 DEGREES 05 MINUTES 15 SECONDS WEST 127.65 FEET; (2) THENCE SOUTH 56 DEGREES 03 MINUTES 19 SECONDS WEST 1003.02 FEET; (3) THENCE SOUTH 33 DEGREES 53 MINUTES 10 SECONDS EAST 99.67 FEET; (4) SOUTH 56 DEGREES 06 MINUTES 50 SECONDS WEST 57.00 FEET; (5) THENCE NORTH 33 DEGREES 53 MINUTES 10 SECONDS WEST 99.61 FEET; (6) THENCE SOUTH 56 DEGREES 03 MINUTES 19 SECONDS WEST 321.79 FEET; (7) THENCE SOUTH 55 DEGREES 42 MINUTES 37 SECONDS WEST 81.38 FEET; (8) THENCE SOUTH 58 DEGREES 19 MINUTES 20 SECONDS WEST 102.85 FEET; (9) THENCE SOUTH 72 DEGREES 20 MINUTES 50 SECONDS WEST 96.08 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE TO THE EAST HAVING A CENTRAL ANGLE OF 2 DEGREES 50 MINUTES 02 SECONDS AND A RADIUS OF 771.50 FEET; (10) THENCE SOUTHERLY ON AND ALONG SAID CURVE AN ARC DISTANCE OF 38.16 FEET (SAID ARC BEING SUBTENDED BY A CHORD HAVING A BEARING OF SOUTH 18 DEGREES 41 MINUTES 29 SECONDS EAST AND A LENGTH OF 38.16 FEET); (11) THENCE SOUTH 20 DEGREES 06 MINUTES 30 SECONDS EAST 148.83 FEET; (12) THENCE SOUTH 69 DEGREES 53 MINUTES 30 SECONDS WEST 57.00 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE TO THE NORTHWEST HAVING A CENTRAL ANGLE OF 90 DEGREES 00 MINUTES 00 SECONDS AND A RADIUS OF 20.00 FEET; (13) THENCE SOUTHWESTERLY ON AND ALONG SAID CURVE AN ARC DISTANCE OF 31.42 FEET (SAID ARC BEING SUBTENDED BY A CHORD HAVING A BEARING OF SOUTH 24 DEGREES 53 MINUTES 30 SECONDS WEST AND A LENGTH OF 28.28 FEET); (14) THENCE SOUTH 69 DEGREES 53 MINUTES 30 SECONDS WEST 7.32 FEET; (15) THENCE SOUTH 20 DEGREES 06 MINUTES 30 SECONDS EAST 57.00 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE TO THE SOUTH HAVING A CENTRAL ANGLE OF 90 DEGREES 00 MINUTES 00 SECONDS AND A RADIUS OF 10.00 FEET; (16) THENCE ON AND ALONG SAID CURVE AN ARC DISTANCE OF 15.71 FEET (SAID ARC BEING SUBTENDED BY A CHORD HAVING A BEARING OF SOUTH 65 DEGREES 06 MINUTES 30 SECONDS EAST AND A LENGTH OF 14.14 FEET); (17) THENCE SOUTH 20 DEGREES 06 MINUTES 30 SECONDS EAST 127.00 FEET; (18) THENCE SOUTH 18 DEGREES 55 MINUTES 28 SECONDS EAST 66.31 FEET; (19) THENCE SOUTH 24 DEGREES 00 MINUTES 19 SECONDS EAST 52.17 FEET; (20) THENCE SOUTH 65 DEGREES 59 MINUTES 41 SECONDS WEST 2.99 FEET; (21) THENCE SOUTH 23 DEGREES 57 MINUTES 04 SECONDS EAST 57.00 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE TO THE SOUTH HAVING A CENTRAL ANGLE OF 90 DEGREES 00 MINUTES 00 SECONDS AND A RADIUS OF 20.00 FEET; (22) THENCE EASTERLY ON AND ALONG SAID CURVE AN ARC DISTANCE OF 31.42 FEET (SAID ARC BEING SUBTENDED BY A CHORD HAVING A BEARING OF SOUTH 69 DEGREES 00 MINUTES 19 SECONDS EAST AND A LENGTH OF 28.28 FEET); (23) THENCE SOUTH 24 DEGREES 00 MINUTES 19 SECONDS EAST 77.00 FEET TO A POINT ON A TANGENT CURVE CONCAVE TO THE NORTHWEST HAVING A CENTRAL ANGLE OF 90 DEGREES 00 MINUTES 00 SECONDS AND A RADIUS OF 10.00 FEET; (24) THENCE SOUTHWESTERLY ON AND ALONG SAID CURVE AN ARC DISTANCE OF 15.71 FEET (SAID ARC BEING SUBTENDED BY A CHORD HAVING A BEARING OF SOUTH 20 DEGREES 59 MINUTES 41 SECONDS WEST AND A LENGTH OF 14.14 FEET); (25) THENCE SOUTH 65 DEGREES 59 MINUTES 41 SECONDS WEST 30.78 FEET; (26) THENCE SOUTH 24 DEGREES 00 MINUTES 19 SECONDS EAST 120.07 FEET; (27) THENCE SOUTH 49 DEGREES 26 MINUTES 47 SECONDS EAST 57.00 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE TO THE NORTHWEST HAVING A CENTRAL ANGLE OF 25 DEGREES 26 MINUTES 28 SECONDS AND A RADIUS OF 128.50 FEET (SAID POINT ALSO BEING ON THE BOUNDARY OF THE AFORESAID HARMONY SECTION ONE, AND CERTIFICATE OF CORRECTION RECORDED AS INSTRUMENT NUMBER 2016001967, IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA, THE NEXT NINE (9) COURSES BEING ON AND ALONG THE BOUNDARY OF SAID HARMONY SECTION ONE); (1) THENCE SOUTHWESTERLY ON AND ALONG SAID CURVE AN ARC DISTANCE OF 57.06 FEET (SAID ARC BEING SUBTENDED BY A CHORD HAVING A BEARING OF SOUTH 53 DEGREES 18 MINUTES 27 SECONDS WEST AND A LENGTH OF 56.59 FEET); (2) THENCE SOUTH 65 DEGREES 59 MINUTES 41 SECONDS WEST 102.69 FEET TO A POINT ON A TANGENT CURVE CONCAVE TO THE NORTHWEST HAVING A CENTRAL ANGLE OF 08 DEGREES 24 MINUTES 24 SECONDS AND A RADIUS OF 528.5 FEET; (3) THENCE SOUTHWESTERLY ON AND ALONG SAID CURVE AN ARC DISTANCE OF 77.54 FEET (SAID ARC BEING SUBTENDED BY A CHORD HAVING A BEARING OF SOUTH 70 DEGREES 11 MINUTES 53 SECONDS WEST AND A LENGTH OF 77.48 FEET); (4) THENCE SOUTH 74 DEGREES 24 MINUTES 05 SECONDS WEST 38.11 FEET; (5) THENCE SOUTH 15 DEGREES 35 MINUTES 55 SECONDS EAST 202.00 FEET; (6) THENCE SOUTH 74 DEGREES 24 MINUTES 05 SECONDS WEST 229.13 FEET; (7) THENCE SOUTH 89 DEGREES 17 MINUTES 41 SECONDS WEST 25.88 FEET; (8) THENCE SOUTH 45 DEGREES 42 MINUTES 19 SECONDS EAST 28.28 FEET; (9) THENCE SOUTH 00 DEGREES 42 MINUTES 19 SECONDS EAST 53.00 FEET TO THE POINT OF BEGINNING. CONTAINING 138.80 ACRES MORE, OR LESS.

WESTFIELD - CONSULTING CONTRACT

This Contract ("this Contract") is made and entered into effective as of _____, 2016 ("Effective Date") by and between City of Westfield, acting by and through its proper officials ("LOCAL PUBLIC AGENCY" or "LPA"), and Spiars Engineering, LLC ("the CONSULTANT"), a limited liability company organized under the laws of the State of INDIANA.

Project No.: 1615099

Project Description: Sleepy Hollow Drainage Improvements

RECITALS

WHEREAS, the LPA has entered into an agreement with the CONSULTANT for a Drainage project ("the Project"), which Project Coordination Contract is herein attached as Attachment 1 and incorporated as reference; and

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

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

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

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

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

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

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

SECTION III TERM. The term of this Contract shall be from the date of the last signature affixed to this Contract to the completion of the construction contract which is estimated to be November 15, 2017. A schedule for completion of the Services and deliverables is set forth in Appendix "C" which is herein attached to and made an integral part of this Contract.

SECTION IV COMPENSATION. The LPA shall pay the CONSULTANT for the Services performed under this Contract as set forth in Appendix "D" which is herein attached to and made an integral part of this Contract. The maximum amount payable under this Contract shall not exceed **\$ 50,000.00.**

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

SECTION VI GENERAL PROVISIONS

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

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

 - B. Any substitution of SUB-CONSULTANTS must first be approved and receive written authorization from the LPA. Any substitution or termination of a Disadvantaged Business Enterprise ("DBE") SUB-CONSULTANT must first be approved and receive written authorization from the LPA.

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

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

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

amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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

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

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

7. **Compliance with Laws.**

- A. The CONSULTANT shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. If the CONSULTANT violates such rules, laws, regulations and ordinances, the CONSULTANT shall assume full responsibility for such violations and shall bear any and all costs attributable to the original performance of any correction of such acts. The enactment of any state or federal statute, or the promulgation of regulations thereunder, after execution of this Contract, shall be reviewed by the LPA and the CONSULTANT to determine whether formal modifications are required to the provisions of this Contract.
- B. The CONSULTANT represents to the LPA that, to the best of the CONSULTANT'S knowledge and belief after diligent inquiry and other than as disclosed in writing to the LPA prior to or contemporaneously with the execution and delivery of this Contract by the CONSULTANT:
 - i. *State of Indiana Actions.* The CONSULTANT has no current or outstanding criminal, civil, or enforcement actions initiated by the State of Indiana pending, and agrees that it will immediately notify the LPA of any such actions. During the term of such actions, CONSULTANT agrees that the LPA may delay, withhold, or deny work under any supplement or amendment, change order or other contractual device issued pursuant to this Contract.
 - ii. *Professional Licensing Standards.* The CONSULTANT, its employees and SUBCONSULTANTS have complied with and shall continue to comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules or regulations governing services to be provided by the CONSULTANT pursuant to this Contract.

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

9. Confidentiality of LPA Information.

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

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

11. Non-Discrimination.

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

It is the policy of the City of Westfield to assure full compliance with Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act and Section 504 of the Vocational Rehabilitation Act and related statutes and regulations in all programs and activities. Title VI and related statutes require that no person in the United States shall on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be

subjected to discrimination under any program or activity receiving Federal financial assistance. (Westfield's Title VI enforcement shall include the following additional grounds: sex, ancestry, age, income status, religion and disability.)

- C. The CONSULTANT shall not discriminate in its selection and retention of contractors, including without limitation, those services retained for, or incidental to, construction, planning, research, engineering, property management, and fee contracts and other commitments with persons for services and expenses incidental to the acquisitions of right-of-way.
- D. The CONSULTANT shall not modify the Project in such a manner as to require, on the basis of race, color or national origin, the relocation of any persons. (Westfield's Title VI enforcement will include the following additional grounds; sex, ancestry, age, income status, religion and disability).
- E. The CONSULTANT shall not modify the Project in such a manner as to deny reasonable access to and use thereof to any persons on the basis of race, color or national origin. (Westfield's Title VI enforcement will include the following additional grounds; sex, ancestry, age, income status, religion and disability.)
- F. The CONSULTANT shall neither allow discrimination by contractors in their selection and retention of subcontractors, lessors and/or material suppliers, nor allow discrimination by their subcontractors in their selection of subcontractors, lessors or material suppliers, who participate in construction, right-of-way clearance and related projects.

- G. The CONSULTANT shall take appropriate actions to correct any deficiency determined by itself and/or the LPA within a reasonable time period, not to exceed ninety (90) days, in order to implement Title VI compliance in accordance with Westfield's assurances and guidelines.
- H. During the performance of this Contract, the CONSULTANT, for itself, its assignees and successors in interest (hereinafter referred to as the "CONSULTANT") agrees as follows:
- (1) Compliance with Regulations: The CONSULTANT shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.
 - (2) Nondiscrimination: The CONSULTANT, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
 - (3) Solicitations for SUBCONSULTANTS, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential SUBCONSULTANT or supplier shall be notified by the CONSULTANT of the CONSULTANT'S obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
 - (4) Information and Reports: The CONSULTANT shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the LPA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information the CONSULTANT shall so certify to the LPA, as appropriate, and shall set forth what efforts it has made to obtain the information.
 - (5) Sanctions for Noncompliance: In the event of the CONSULTANT'S noncompliance with the nondiscrimination provisions of this contract, the LPA shall impose such contract sanctions as it may determine to be appropriate, including, but not limited to:
 - (a) withholding of payments to the CONSULTANT under the Contract until the CONSULTANT complies, and/or
 - (b) cancellation, termination or suspension of the Contract, in whole or in part.
 - (6) Incorporation of Provisions: The CONSULTANT shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

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

12. Disputes.

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

13. Drug-Free Workplace Certification.

- A. The CONSULTANT hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace, and that it will give written notice to the LPA within ten (10) days after receiving actual notice that an employee of the CONSULTANT in the State of Indiana has been convicted of a criminal drug violation occurring in the CONSULTANT's workplace. False certification or violation of the certification may result in sanctions including, but not limited to, suspension of Contract payments, termination of this Contract and/or debarment of contracting opportunities with the LPA.
- B. The CONSULTANT certifies and agrees that it will provide a drug-free workplace by:
 - i. Publishing and providing to all of its employees a statement notifying their employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the CONSULTANT's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
 - ii. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the CONSULTANT's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;

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

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

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

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

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

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

15. **Force Majeure.** In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of fire, natural disaster, acts of God, acts of war, terrorism, civil disorders, decrees of governmental bodies, strikes, lockouts, labor or supply disruptions or similar causes beyond the reasonable control of the affected party (hereinafter referred to as a Force Majeure Event), the party who has been so affected shall immediately give written notice to the other party of the occurrence of the Force Majeure Event (with a description in reasonable detail of the circumstances causing such Event) and shall do everything reasonably possible to resume performance. Upon receipt of such written notice, all obligations under this Contract shall be immediately suspended for as long as such Force Majeure Event continues and provided that the affected party continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay. If the period of nonperformance exceeds thirty (30) days from the receipt of written notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

16. **Governing Laws.** This Contract shall be construed in accordance with and governed by the laws of the State of Indiana and the suit, if any, must be brought in the State of Indiana. The CONSULTANT consents to the jurisdiction of and to venue in any court of competent jurisdiction in the State of Indiana.
17. **Liability.** If the CONSULTANT or any of its SUB-CONSULTANTS fail to comply with any federal requirement which results in the LPA's repayment of federal funds the CONSULTANT shall be responsible to the LPA, for repayment of such costs to the extent such costs are caused by the CONSULTANT and/or its SUB-CONSULTANTS.
18. **Indemnification.** The CONSULTANT agrees to indemnify the LPA, and their agents, officials, and employees, and to hold each of them harmless, from claims and suits including court costs, attorney's fees, and other expenses caused by any negligent act, error or omission of, or by any recklessness or willful misconduct by, the CONSULTANT and/or its SUB-CONSULTANTS, if any, under this Contract, provided that if the CONSULTANT is a "contractor" within the meaning of I.C. 8-3-2-12.5, this indemnity obligation shall be limited by and interpreted in accordance with I.C. 8-23-2-12-5. The LPA shall not provide such indemnification to the CONSULTANT.
19. **Independent Contractor.** Both parties hereto, in the performance of this Contract, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents or employees of the other party. The CONSULTANT shall be responsible for providing all necessary unemployment and workers' compensation insurance for its employees.
20. **Insurance - Liability for Damages.**
- A. The CONSULTANT shall be responsible for the accuracy of the Services performed under this Contract and shall promptly make necessary revisions or corrections resulting from its negligence, errors or omissions without any additional compensation from the LPA. Acceptance of the Services by the LPA shall not relieve the CONSULTANT of responsibility for subsequent correction of its negligent act, error or omission or for clarification of ambiguities. The CONSULTANT shall have no liability for the errors or deficiencies in designs, drawings, specifications or other services furnished to the CONSULTANT by the LPA on which the Consultant has reasonably relied, provided that the foregoing shall not relieve the CONSULTANT from any liability from the CONSULTANT'S failure to fulfill its obligations under this Contract, to exercise its professional responsibilities to the LPA, or to notify the LPA of any errors or deficiencies which the CONSULTANT knew or should have known existed.
 - B. During construction or any phase of work performed by others based on Services provided by the CONSULTANT, the CONSULTANT shall confer with the LPA when necessary for the purpose of interpreting the information, and/or to correct any negligent act, error or omission. The CONSULTANT shall prepare any plans or data needed to correct the negligent act, error or omission without additional compensation, even though final payment may have been received by the CONSULTANT. The CONSULTANT shall give immediate attention to these changes for a minimum of delay to the project.
 - C. The CONSULTANT shall be responsible for damages including but not limited to direct and indirect damages incurred by the LPA as a result of any negligent act, error or omission of the CONSULTANT, and for the LPA's losses or costs to repair or remedy construction not to exceed \$100,000.00. Acceptance of the Services by the LPA shall not relieve the CONSULTANT of responsibility for subsequent correction.

- D. The CONSULTANT shall be required to maintain in full force and effect, insurance as described below from the date of the first authorization to proceed until the LPA's acceptance of the work product. The CONSULTANT shall list the LPA as insured on any policies. The CONSULTANT must obtain insurance written by insurance companies authorized to transact business in the State of Indiana and licensed by the Department of Insurance as either admitted or non-admitted insurers.
- E. The LPA, its officers and employees assume no responsibility for the adequacy of limits and coverage in the event of any claims against the CONSULTANT, its officers, employees, sub-consultants or any agent of any of them, and the obligations of indemnification in Section 18 herein shall survive the exhaustion of limits of coverage and discontinuance of coverage beyond the term specified, to the fullest extent of the law.
- F. The CONSULTANT shall furnish a certificate of insurance and all endorsements to the LPA prior to the commencement of this Contract. Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the CONSULTANT. Failure to provide insurance as required in this Contract is a material breach of Contract entitling the LPA to immediately terminate this Contract.

I. Professional Liability Insurance

The CONSULTANT must obtain and carry professional liability insurance as follows: the CONSULTANTS shall carry professional liability insurance in an amount not less than \$250,000.00 per claim and \$250,000.00 aggregate for all claims for negligent performance. The CONSULTANT shall maintain the coverage for a period ending two (2) years after substantial completion of construction.

II. Commercial General Liability Insurance

The CONSULTANT must obtain and carry Commercial / General liability insurance as follows: the CONSULTANT shall carry \$250,000.00 per occurrence, \$250,000.00 general aggregate. Coverage shall be on an occurrence form, and include contractual liability. The policy shall be amended to include the following extensions of coverage:

1. Exclusions relating to the use of explosives, collapse, and underground damage to property shall be removed.
2. The policy shall provide thirty (30) days' notice of cancellation to LPA.
3. The CONSULTANT shall name the LPA as an additional insured.

III. Automobile Liability (When Applicable)

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

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

IV. Watercraft Liability (When Applicable)

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

V. Aircraft Liability (When Applicable)

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

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

Notices to the LPA shall be sent to:

City of Westfield
Attn: Phil Sundling
2706 E. 171st Street
Westfield, IN 46074

Notices to the CONSULTANT shall be sent to:

Spiars Engineering, LLC
Attn: Russell Spiars
650 Eagle Creek Circle
Zionsville, IN 46077

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

23. **Order of Precedence; Incorporation by Reference.** Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) This Contract and attachments, (2) RFP document, (3) the CONSULTANT's response to the RFP document, and (4) attachments prepared by the CONSULTANT. All of the foregoing are incorporated fully by reference.
24. **Ownership of Documents and Materials.** All documents, records, programs, data, film, tape, articles, memoranda, and other materials not developed or licensed by the CONSULTANT prior to execution of this Contract, but specifically developed under this Contract shall be considered "work for hire" and the CONSULTANT assigns and transfers any ownership claim to the LPA and all such materials ("Work Product") will be the property of the LPA. The CONSULTANT agrees to execute and deliver such assignments or other documents as may be requested by the LPA. Use of these materials, other than related to contract performance by the CONSULTANT, without the LPA's prior written consent, is prohibited. During the performance of this Contract, the CONSULTANT shall be responsible for any loss of or damage to any of the Work Product developed for or supplied by the LPA and used to develop or assist in the Services provided herein while any such Work Product is in the possession or control of the CONSULTANT. Any loss or damage thereto shall be restored at the CONSULTANT's expense. The CONSULTANT shall provide the LPA full, immediate, and unrestricted access to the Work Product during the term of this Contract. The CONSULTANT represents, to the best of its knowledge and belief after diligent inquiry and other than as disclosed in writing prior to or contemporaneously with the execution of this Contract by the CONSULTANT, that the Work Product does not infringe upon or misappropriate the intellectual property or other rights of any third party. The CONSULTANT shall not be liable for the use of its deliverables described in Appendix "A" on other projects without the express written consent of the CONSULTANT or as provided in Appendix "A".
25. **Payments.** All payments shall be made in arrears and in conformance with the LPA's fiscal policies and procedures.
26. **Penalties, Interest and Attorney's Fees.** The LPA will in good faith perform its required obligations hereunder, and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law in part, IC 5-17-5, I. C. 34-54-8, and I. C. 34-13-1.

27. **Pollution Control Requirements.** If this Contract is for \$100,000 or more, the CONSULTANT:
- i. Stipulates that any facility to be utilized in performance under or to benefit from this Contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended;
 - ii. Agrees to comply with all of the requirements of section 114 of the Clean Air Act and section 308 of the Federal Water Pollution Control Act, and all regulations and guidelines issued thereunder; and
28. **Severability.** The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.
29. **Status of Claims.** The CONSULTANT shall give prompt written notice to the LPA any claims made for damages against the CONSULTANT resulting from Services performed under this Contract and shall be responsible for keeping the LPA currently advised as to the status of such claims. The CONSULTANT shall send notice of claims related to work under this Contract to:
30. **Sub-consultant Acknowledgement.** The CONSULTANT agrees and represents and warrants to the LPA, that the CONSULTANT will obtain signed Sub-consultant Acknowledgement forms, from all SUB-CONSULTANTS providing Services under this Contract or to be compensated for Services through this Contract. The CONSULTANT agrees to provide signed originals of the Sub-consultant Acknowledgement form(s) to the LPA for approval prior to performance of the Services by any SUB-CONSULTANT.
31. **Substantial Performance.** This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any modification or Amendment thereof.
32. **Taxes.** The LPA will not be responsible for any taxes levied on the CONSULTANT as a result of this Contract.
33. **Termination for Convenience.**
- A. The LPA may terminate, in whole or in part, whenever, for any reason, when the LPA determines that such termination is in its best interests. Termination or partial termination of Services shall be effected by delivery to the CONSULTANT of a Termination Notice at least fifteen (15) days prior to the termination effective date, specifying the extent to which performance of Services under such termination becomes effective. The CONSULTANT shall be compensated for Services properly rendered prior to the effective date of termination. The LPA will not be liable for Services performed after the effective date of termination.
 - B. If the LPA terminates or partially terminates this Contract for any reason regardless of whether it is for convenience or for default, then and in such event, all data, reports, drawings, plans, sketches, sections and models, all specifications, estimates, measurements and data pertaining to the project, prepared under the terms or in fulfillment of this Contract, shall be delivered within ten (10) days to the LPA. In the event of the failure by the CONSULTANT to make such delivery upon demand, the CONSULTANT shall pay to the LPA any damage (including costs and reasonable attorneys' fees and expenses) it may sustain by reason thereof.

34. Termination for Default.

- A. With the provision of twenty (20) days written notice to the CONSULTANT, the LPA may terminate this Contract in whole or in part if
- (i) the CONSULTANT fails to:
 1. Correct or cure any breach of this Contract within such time, provided that if such cure is not reasonably achievable in such time, the CONSULTANT shall have up to ninety (90) days from such notice to effect such cure if the CONSULTANT promptly commences and diligently pursues such cure as soon as practicable;
 2. Deliver the supplies or perform the Services within the time specified in this Contract or any amendment or extension;
 3. Make progress so as to endanger performance of this Contract; or
 4. Perform any of the other provisions of this Contract to be performed by the CONSULTANT; or
 - (ii) if any representation or warranty of the CONSULTANT is untrue or inaccurate in any material respect at the time made or deemed to be made.
- B. If the LPA terminates this Contract in whole or in part, it may acquire, under the terms and in the manner the LPA considers appropriate, supplies or services similar to those terminated, and the CONSULTANT will be liable to the LPA for any excess costs for those supplies or services. However, the CONSULTANT shall continue the work not terminated.
- C. The LPA shall pay the contract price for completed supplies delivered and Services accepted. The CONSULTANT and the LPA shall agree on the amount of payment for manufactured materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause (see Section 12). The LPA may withhold from the agreed upon price for Services any sum the LPA determine necessary to protect the LPA against loss because of outstanding liens or claims of former lien holders.
- D. The rights and remedies of the LPA in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.
- E. **Default by the LPA.** If the CONSULTANT believes the LPA is in default of this Contract, it shall provide written notice immediately to the LPA describing such default. If the LPA fails to take steps to correct or cure any material breach of this Contract within sixty (60) days after receipt of such written notice, the CONSULTANT may cancel and terminate this Contract and institute the appropriate measures to collect monies due up to and including the date of termination, including reasonable attorney fees and expenses, provided that if such cure is not reasonably achievable in such time, the LPA shall have up to one hundred twenty (120) days from such notice to effect such cure if the LPA promptly commences and diligently pursues such cure as soon as practicable. The CONSULTANT shall be compensated for Services properly rendered prior to the effective date of such termination. The CONSULTANT agrees that it has no right of termination for non-material breaches by the LPA.

35. **Waiver of Rights.** No rights conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver or excuse is approved in writing and signed by the party claimed to have waived such right. Neither the LPA's review, approval or acceptance of, nor payment for, the Services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the CONSULTANT shall be and remain liable to the LPA in accordance with applicable law for all damages to the LPA caused by the CONSULTANT's negligent performance of any of the Services furnished under this Contract.
36. **Work Standards/Conflicts of Interest.** The CONSULTANT shall understand and utilize all relevant LPA standards including, but not limited to, the most current version of the City of Westfield Standards and Specifications, where applicable, and other appropriate materials and shall perform all Services in accordance with the standards of care, skill and diligence required in Appendix "A" or, if not set forth therein, ordinarily exercised by competent professionals doing work of a similar nature.
37. **No Third-Party Beneficiaries.** This Agreement is solely for the benefit of the parties hereto. Other than the indemnity rights under this Contract, nothing contained in this Agreement is intended or shall be construed to confer upon any person or entity (other than the parties hereto) any rights, benefits or remedies of any kind or character whatsoever.
38. **No Investment in Iran.** As required by IC 5-22-16.5, the CONSULTANT certifies that the CONSULTANT is not engaged in investment activities in Iran. Providing false certification may result in the consequences listed in IC 5-22-16.5-14, including termination of this Contract and denial of future state contracts, as well as an imposition of a civil penalty.
39. **Assignment of Antitrust Claims.** The CONSULTANT assigns to the State all right, title and interest in and to any claims the CONSULTANT now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.

[Remainder of Page Intentionally Left Blank]

Non-Collusion.

The undersigned attests, subject to the penalties for perjury, that he/she is the CONSULTANT, or that he/she is the properly authorized representative, agent, member or officer of the CONSULTANT, that he/she has not, nor has any other member, employee, representative, agent or officer of the CONSULTANT, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Contract other than that which appears upon the face of this Contract.

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

CONSULTANT**LOCAL PUBLIC AGENCY**

 Signature

 Signature

 Russell Spiars, Owner

 Randell Graham, Member

 Signature

Attest:

 Kate Snedeker, Member

 Signature

 Signature

 Cindy Gossard, Clerk Treasurer

 J. Andrew Cook, Member

APPENDIX "A"

SERVICES TO BE FURNISHED BY CONSULTANT:

In fulfillment of this Contract, the CONSULTANT shall comply with the requirements of the appropriate regulations and requirements of the City of Westfield and the State of Indiana.

The CONSULTANT shall be responsible for performing the following activities:

- Assess Drainage for Existing Streets
 - Adding inlets, manholes, and curb turnouts
 - Curb ramps, casting adjustments, sidewalk repair, if necessary
- Additional infrastructure required to handle the outletting of all the project areas
 - Ultimate goal and desire is for all stormwater to outlet to Wheeler & Beals Drain in Freedom Trail Park
 - Include the outlet permit in your scope through Hamilton County
- Verify all existing infrastructure is sized appropriately both onsite and downstream
- Drainage Report
- Address all problem areas as noted below
- Easement definitions if determined necessary
- SWPPP and Rule 5 Permitting
- Attendance and Support for Public Information Meetings
- Bid documents including plans and Contract Information Book
- As-built Drawings
- Post-Construction Services, as necessary

Sleepy Hollow subdivision:

- Streets affected- Sleepy Hollow Dr., Sleepy Hollow Ct. and Debbie Ct.
- Description of Work- Address overall drainage behind rear yards and existing swale system. Identify potential outlets for drainage and current infrastructure to accommodate stormwater drainage.
- Notable Drainage Issues-
 - **41 Sleepy Hollow Ct.:** existing outlet into rear yard swale. Significant water standing through the extension of the rear yard.
 - **37, 38, and 39 Sleepy Hollow Ct.:** drainage through rear yards is extremely limited.
 - **34 Sleepy Hollow Ct.:** the storm drain in front of the residence clogs very quickly. It appears to drain to the north through a clay tile. The tile may be compromised.
 - **10 Debbie Ct.:** Drainage through the subsurface drain heading south in the rear yard swale is poor at best. There has been some fairly recent infrastructure installed through this area.

North St:

- Streets Affected- North St.
- Description of Work- Address roadside drainage and rear yard if possible. Identify potential outlets for drainage and current infrastructure to accommodate stormwater drainage.
- Notable Drainage Issues- Currently there have been no complaints on this street. There is some subsurface drainage from the NW corner of N. Cherry and North St. running west along the road to a permanent structure on the Christ United Methodist Church property. This was installed to accommodate sump line discharge for 236 E. North St. and 218 N. St.

East St.:

- Streets Affected- East Street between Sleepy Hollow Dr. and North Street

- Description of Work- Address roadside drainage and rear yard drainage. Identify potential outlets for drainage and current infrastructure to accommodate stormwater drainage.
- Notable Drainage Issues-
 - **317 N East St.:** South side of home experiences significant drainage issues draining onto property from the west. There is currently no infrastructure to remove the stormwater once it enters the residence.
 - **337 N East St.:** Roadside drainage is very limited. Heavy rain events result in flooding across East St. The drive way culverts are in need of repair. The drainage behind the home is being diverted onto the properties in Sleepy Hollow and neighbor to the north.
 - **345 N East St.:** Roadside drainage is very limited as well as the additional rear yard drainage. There is currently a culvert crossing in the front of the property that drains to the East. This stormwater drains through the property at 403 Sonhatsett Dr., stormwater stands and stages on this property before slowly continuing to drain to the east.
 - **415 N. East St.:** Drainage on the south side of home is very limited before entering the rear yard. The homeowners have installed a 4” single wall tile that drains to the north and is compromised. The existing rear yard swales are no longer present.

Additional Items:

- Need to identify that stormwater infrastructure behind 402,406,410,414,418,422 and 426 Savannah Ln. is capable of handling the additional offsite drainage from Sleepy Hollow and East St. Also need to identify if the infrastructure is in good condition.
- Need to identify if the stormwater system behind 403,407,411,415,419,425,429 and 501 Sonhatsett Dr. is capable of handling the additional offsite drainage from East St. Also need to identify if the rear yard swale in this location needs to be improved or if new infrastructure needs to be installed.

APPENDIX "B"

INFORMATION AND SERVICES TO BE FURNISHED BY THE LPA:

The LPA shall furnish the CONSULTANT with the following:

- Provide existing plans and information for the Sleepy Hollow subdivision
- Topographic Survey (performed by Others)
- Utility Relocation Plans and Coordination, if necessary
- Prepare markups and consultation on easements descriptions and acquisition, as necessary (Easement instruments to be prepared by Others)
- Coordination and Presentation for the Public Information Meetings
- Project letting and advertising
- Construction Inspection
- New construction As-built data (Survey data for As-Built by Others)

APPENDIX "C"**SCHEDULE:**

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

All work by the CONSULTANT under this Contract shall be completed and delivered to the LPA for review and approval within the approximate time periods shown in the following submission schedule:

Owner	Task Name	Duration	Start	Finish
Survey	Survey	60	10/1/2016	11/30/2016
Preliminary Engineering	Stage 1 (30%)	30	11/30/2016	12/30/2016
Preliminary Engineering	Preliminary Field Check	30	12/30/2016	1/29/2017
Public Outreach	Public Information Meeting No. 1	1	1/29/2017	1/30/2017
Utilities	Work Plans (If Necessary)	30	1/30/2017	3/1/2017
Permitting	Rule 5 Permitting	60	1/30/2017	3/31/2017
Preliminary Engineering	Stage 3 (90%)	30	1/30/2017	3/1/2017
Preliminary Engineering	Final Field Check	30	3/1/2017	3/31/2017
Utilities	Utility Relocations (If Necessary)	90	3/1/2017	5/30/2017
Preliminary Engineering	Final Tracings	30	3/31/2017	4/30/2017
Preliminary Engineering	Contract Information Book	30	3/31/2017	4/30/2017
Preliminary Engineering	Letting	30	4/30/2017	5/30/2017
Preliminary Engineering	Public Information Meeting No. 2	1	5/30/2017	5/31/2017
Construction	Begin Construction	1	5/31/2017	6/1/2017
Construction	End Construction	150	6/1/2017	10/29/2017

APPENDIX "D"**COMPENSATION:****A. Amount of Payment**

- a. The Consultant shall be compensated for basic services to be performed under this Contract on an hourly basis. The total obligation under this portion of the Contract shall not exceed **\$50,000.00** unless approved in writing by the LPA.
- b. The Consultant shall not be paid for any service performed by the LPA or not required to develop this project.

B. Hourly Rates

- a. Professional Engineer \$100.00/hr.
- b. Design Technician \$ 60.00/hr.
- c. Clerical \$ 30.00/hr.
- d. Direct expenses Cost + 10%
- e. Mileage Current IRS Rate
- f. Other To be approved in writing by LPA

C. Method of Payment

- a. The Consultant may submit a maximum of one invoice voucher per calendar month for services covered under this Contract. The invoice voucher shall be submitted to the LPA Project Manager at AP@westfield.in.gov.
- b. The invoice voucher shall represent the value, to the LPA, of the partially completed services as of the date of the invoice voucher which shall include at a minimum the staff type, wage, and hours.
- c. The LPA, 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 on an hourly basis, per rates established above, not to exceed the Amount of Payment.

DEDICATION OF PUBLIC RIGHT OF WAY

THIS INDENTURE WITNESSETH: That Centennial Homeowners Association, Inc., an Indiana nonprofit corporation (“Grantor”), hereby gives and dedicates to the City of Westfield (hereinafter “Grantee”), for public right-of-way purposes only, the real estate situated in Hamilton County, Indiana, and described in Exhibit “A” attached hereto and made a part hereof.

This dedication is made subject to all existing easements and right-of-ways.

This conveyance of real estate is not subject to Indiana gross income tax.

IN WITNESS WHEREOF, Grantor has executed this Dedication as of the _____ day of _____, 2015.

By: _____
 Printed: Joseph Plankis
 Title: President
 Centennial Homeowners Association, Inc.

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

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

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

My Commission Expires:

NOTARY PUBLIC, A resident of Hamilton
County, Indiana
Printed:

Exhibit A

Private Drives (**Parcel # 29-09-15-020-172.000-015**) (**11.37 acres**) as set forth on the Plat for Centennial South recorded with the Office of the Hamilton County Recorder on October 25, 2005, as **Instrument # 200500070069**.

Property Address: 0 Somerville Drive, Westfield, IN 46074

ACCEPTANCE

WHEREAS, the foregoing Grantor has this day filed with the City of Westfield Indiana, its dedication of certain real estate for the purpose of establishing City rights-of-way, which Dedication is hereinabove set forth:

AND WHEREAS, the City of Westfield, is of the opinion that said Dedication is desirable and necessary.

NOW THEREFORE, said City of Westfield, under and by virtue of the power conferred upon it by statutes of the State of Indiana, for and on behalf of the City, accepts said Dedication for the purpose of public rights-of-way, and orders that the Instrument of Dedication be recorded in the Recorder's Office of the County of Hamilton, State of Indiana, and said described real estate is hereby declared open and dedicated.

WESTFIELD BOARD OF PUBLIC WORKS AND SAFETY

<u>Voting For</u>	<u>Voting Against</u>	<u>Abstain</u>
J. Andrew Cook	J. Andrew Cook	J. Andrew Cook
Randy Graham	Randy Graham	Randy Graham
Kate Snedeker	Kate Snedeker	Kate Snedeker

ATTEST:

Cindy Gossard, Clerk Treasurer

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

**INDIANA DEPARTMENT OF TRANSPORTATION - LOCAL PUBLIC AGENCY
EXCHANGE CONTRACT**

EDS #: A249-17-L160145

Des. No.: 1401650

CFDA No.: 20.205

This Contract is made and entered into effective as of the date of the Indiana Attorney General signature affixed to this Contract, by and between the State of Indiana, acting by and through the Indiana Department of Transportation, (hereinafter referred to as INDOT), and the City of Westfield, a local public agency in the State of Indiana (hereinafter referred to as the LPA), and collectively referred to as the PARTIES.

NOTICE TO PARTIES

Whenever any notice, statement or other communication is required under this Contract, it shall be sent to the following address, unless otherwise specifically advised.

A. Notice to INDOT, regarding contract provisions shall be sent to:

Office of LPA/MPO and Grant Administration
Attention: Director of LPA/MPO and Grant Administration
100 North Senate Avenue, Room N955
Indianapolis, Indiana 46204

B. Notices to INDOT regarding project management shall be sent to respective District Office:

Greenfield District Office
32 South Broadway
Greenfield, Indiana 46140

C. Notices to the LPA shall be sent to:

City of Westfield
130 Penn Street
Westfield, Indiana 46074

RECITALS

WHEREAS, LPA has applied to INDOT, and INDOT has found the LPA eligible to receive federal funds for the Project described in Attachment A; and

WHEREAS, LPA requests an exchange of federal funds for state funds under IC 36-9-42.2; and

WHEREAS, LPA agrees to pay its share of the Project cost as stated in this Contract; and

WHEREAS, the PARTIES desire to contract on certain project description, scheduling, and funding allocation; and

WHEREAS, the PARTIES have determined the Project, is in the best interests of the citizens of the State of Indiana; and

WHEREAS, the PARTIES execute this Contract pursuant to Indiana Code §§ 8-23-2-6, 8-23-4-7, 36-1-4-7, 36-1-7-3, and 36-9-42.2; and

WHEREAS, the LPA desires to expedite delivery of the Project, comply with all State requirements and fiscally manage the Project; and

NOW THEREFORE, in consideration of the mutual covenants and promises herein contained, the LPA and INDOT agree as follows:

The “Recitals” and “Notice to PARTIES” above are hereby made an integral part and specifically incorporated into this Contract.

SECTION I **PROJECT DESCRIPTION.** INDOT and the LPA enter into this Contract to complete the project described in **Attachment A** (the “Project”), herein attached to and made an integral part of this Contract.

SECTION II **LPA RESPONSIBILITIES.**

A. Pursuant to Indiana Code § 36-9-42.2(8) the LPA agrees to the following:

1. The LPA may only exchange federal funds for state funds;
2. The LPA may use the state funds only for a capital project that will fulfill the purpose of the original federal project award and is approved by INDOT;
3. If the LPA uses the state funds to replace local funds in order to use the local funds for purposes unrelated to transportation, the LPA:
 - a. must repay the state funds to INDOT; and
 - b. may not participate in the exchange program during the succeeding fiscal year.
4. The exchange rate is not less than seventy-five cents (\$0.75) of state funds for each one dollar (\$1) of federal funds;
5. The LPA agrees to provide local matching funds equal to not less than ten percent (10%) of the estimated project cost; and
6. The LPA agrees that INDOT will disburse the funds on a reimbursement basis.

B. The LPA will provide the information and services, or shall cause the information and services to be provided, as set out in **Attachment B** (LPA’s Rights and Duties), herein attached to and made an integral part of this Contract. The LPA will follow all applicable INDOT procedures, guidelines, manuals, standards, specifications and directives.

SECTION III **INDOT RESPONSIBILITIES.** INDOT will provide the information and services as set out in **Attachment C** (INDOT’s Rights and Duties), herein attached to and made an integral part of this Contract.

SECTION IV **PROJECT FUNDS.** INDOT will provide state funds in exchange for federal funds at a rate of \$.75 state dollar per \$1.00 federal dollar for the cost of the Project. INDOT will reimburse LPA for actual costs, less the 10% local match, and payment will be made for the services performed under this Contract in accordance with Attachment D (Project Funds), which is herein attached to and made an integral part of this Contract. The Maximum amount of state funds that INDOT will reimburse LPA for is **\$ 4,500,000.00.**

SECTION V **TERM AND SCHEDULE.**

The Term of this Contract shall be from **July 1, 2016 to June 30, 2019.**

SECTION VI **GENERAL PROVISIONS**

- A. **Access to Records.** The LPA shall maintain all books, documents, papers, correspondence, accounting records and other evidence pertaining to the cost incurred under this Contract, and shall make such materials available at their respective offices at all reasonable times during the period of this Contract and for five (5) years from the date of final payment under the terms of this Contract, for inspection or audit by INDOT or its authorized representative, and copies thereof shall be furnished free of charge, if requested by INDOT.
- B. **Audits.** The LPA acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC §5-11-1, *et seq.*, and audit guidelines specified by the State.

The State considers the LPA to be a “sub-recipient” for purposes of this Contract. However, if required by applicable provisions of the Office of Management and Budget Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations), following the expiration of this Contract the LPA shall arrange for a financial and compliance audit of funds provided by the State pursuant to this Contract. Such audit is to be conducted by an independent public or certified public accountant (or as applicable, the Indiana State Board of Accounts), and performed in accordance with Indiana State Board of Accounts publication entitled “Uniform Compliance Guidelines for Examination of Entities Receiving Financial Assistance from Governmental Sources,” and applicable provisions of the Office of Management and Budget Circulars A-133 (Audits of States, Local Governments, and Non-Profit Organizations). The LPA is responsible for ensuring that the audit and any management letters are completed and forwarded to the State in accordance with the terms of this Contract.

For audits conducted pursuant to Indiana Code 5-11-1, and audited by the Indiana State Board of Accounts on the time schedule set forth by the Indiana State Board of Accounts, the LPA shall provide to the Indiana State Board of Accounts, all requested documentation necessary to audit the Local Public Agency in its entirety.

If the audit is conducted by an independent public or certified public account and not the Indiana State Board of Accounts, the LPA shall submit the completed audit to the Indiana State Board of Accounts within 10 (ten) days of the completion of the audit.

The audit shall be an audit of the actual entity, or distinct portion thereof that is the LPA, and not of a parent, member, or subsidiary corporation of the LPA, except to the extent such an expanded audit may be determined by the Indiana State Board of Accounts or the State to be in the best interests of the State.

C. Compliance with Laws.

1. The LPA shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations there under, after execution of this Contract shall be reviewed by INDOT and the LPA to determine whether the provisions of this Contract require formal modification.
2. The LPA and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State, as set forth in Indiana Code § 4-2-6, *et seq.*, Indiana Code § 4-2-7, *et seq.*, the regulations promulgated there under, and Executive Order 05-12, dated January 12, 2005. If the LPA is not familiar with these ethical requirements, the LPA should refer any questions to the Indiana State Ethics Commission, or visit the Indiana State Ethics Commission website at <<<http://www.in.gov/ethics/>>>>. If the LPA or its agents violate any applicable ethical standards, INDOT may, in its sole discretion, terminate this Contract immediately upon notice to the LPA. In addition, the LPA may be subject to penalties under Indiana Code §§ 4-2-6, 4-2-7, 35-44-1-3 and under any other applicable State or Federal laws.
3. The LPA represents and warrants that the LPA and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations and approvals, as well as comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities under this agreement. Failure to do so may be deemed a material breach of this Contract and grounds for termination and denial of further work with the State.
4. As required by I.C. 5-22-3-7:
 - (1) The LPA and any officials of the LPA certify that:
 - (A) the LPA, except for de minimis and nonsystematic violations, has not violated the terms of:
 - (i) IC §24-4.7 [Telephone Solicitation Of Consumers];
 - (ii) IC §24-5-12 [Telephone Solicitations]; or
 - (iii) IC §24-5-14 [Regulation of Automatic Dialing Machines];
 in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and
 - (B) the LPA will not violate the terms of IC §24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.
 - (2) The LPA and any officials of the LPA certify that an affiliate or official of the LPA and any agent acting on behalf of the LPA or on behalf of an affiliate or official of the LPA except for de minimis and nonsystematic violations,
 - (A) has not violated the terms of IC §24-4.7 in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and
 - (B) will not violate the terms of IC §24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

D. Debarment and Suspension.

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

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

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

1. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
2. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
3. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
4. Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;
5. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against

the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and

6. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

- F. **Force Majeure.** In the event either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a Force Majeure Event), the party who has been so affected shall immediately give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.
- G. **Funding Cancellation Clause.** When the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of the performance of this Contract, this Contract shall be canceled. A determination by the Director of the State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.
- H. **Governing Laws.** This Contract shall be construed in accordance with and governed by the laws of the State of Indiana and suit, if any, must be brought in the State of Indiana.
- I. **Indemnification.** The LPA agrees to and shall indemnify, defend, exculpate, and hold harmless the State of Indiana, INDOT and/or its/their officials, agents, representatives, attorneys and employees, individually and/or jointly, from any and all claims, demands, actions, liability and/or liens that may be asserted by the LPA and/or by any other person, firm, corporation, insurer, government or other legal entity, for any claim for damages arising out of any and all loss, damage, injuries, and/or other casualties of whatsoever kind, or by whomsoever caused, to the person or property of anyone on or off the right-of-way, arising out of or resulting from the performance of the contract or from the installation, existence, use, maintenance, condition, repairs, alteration and/or removal of any equipment or material, whether due in whole or in part to the acts and/or omissions and/or negligent acts and/or omissions:
 - (a) of the State of Indiana, INDOT, and/or its/their officials, agents, representatives, attorneys and/or employees, individually and/or jointly;
 - (b) of the LPA, and/or its officials, agents, representatives, attorneys and/or employees, individually and/or jointly;
 - (c) of any and all persons, firms, corporations, insurers, government or other legal entity engaged in the performance of the contract; and/or
 - (d) the joint negligence of any of them, including any claim arising out of the Worker's Compensation law or any other law, ordinance, order, or decree.

The LPA also agrees to pay all reasonable expenses and attorney's fees incurred by or imposed on the State of Indiana, INDOT and/or its/their officials, agents, representatives, attorneys, and/or employees, individually and/or jointly, in connection herewith in the event that the LPA shall default under the provisions of this section.

The LPA also agrees to pay all reasonable expenses and attorney's fees incurred by or imposed on the State of Indiana, INDOT and/or its/their officials, agents, representatives, attorneys, and/or employees, individually and/or jointly, in asserting successfully a claim against the LPA for indemnity pursuant to this contract.

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

K. Non-Discrimination.

1. This Contract is enacted pursuant to the Indiana Civil Rights Law, specifically including IC 22-9-1-10, and in keeping with the purposes of the Civil Rights Act of 1964 as amended, the Age Discrimination in Employment Act, and the Americans with Disabilities Act. Breach of this covenant may be regarded as a material breach of this Contract, but nothing in this covenant shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the LPA or any subcontractor.

Under IC 22-9-1-10 LPA covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, or status as a veteran.

2. The LPA understands that INDOT is a recipient of federal funds. Pursuant to that understanding, the LPA agrees that if the LPA employs fifty (50) or more employees and does at least \$50,000.00 worth of business with the State and is not exempt, the LPA will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The LPA shall comply with Section 202 of executive order 11246, as amended, 41 CFR 60-250, and 41 CFR 60-741, as amended, which are incorporated herein by specific reference. Breach of this covenant may be regarded as a material breach of Contract.

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

3. During the performance of this Contract, the LPA, for itself, its assignees and successors in interest (hereinafter referred to as the "LPA") agrees to the following assurances under Title VI of the Civil Rights Act of 1964:
 - a. Compliance with Regulations: The LPA shall comply with the regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation,

Title 49 CFR Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.

- b. Nondiscrimination: The LPA, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, sex, sexual orientation, gender identity, national origin, religion, disability, ancestry, or status as a veteran in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The LPA shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulation, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.
- c. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the LPA for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the LPA of the LPA's obligations under this Contract, and the Regulations relative to nondiscrimination on the grounds of race, color, sex, sexual orientation, gender identity, national origin, religion, disability, ancestry, income status, limited English proficiency, or status as a veteran.
- d. Information and Reports: The LPA shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Indiana Department of Transportation and Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a LPA is in the exclusive possession of another who fails or refuses furnish this information, the LPA shall so certify to the Indiana Department of Transportation or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
- e. Sanctions for Noncompliance: In the event of the LPA's noncompliance with the nondiscrimination provisions of this Contract, the Indiana Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to: (a) withholding payments to the LPA under the Contract until the LPA complies, and/or (b) cancellation, termination or suspension of the Contract, in whole or in part.
- f. Incorporation of Provisions: The LPA shall include the provisions of paragraphs a through f in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

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

- L. Payment.** All payments made by INDOT, if any, shall be made in arrears in conformance with State fiscal policies and procedures and, as required by I.C. 4-13-2-14.8, by electronic funds transfer to the financial institution designated by the LPA in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Contract except as permitted by I.C. 4-13-2-20.
- M. Penalties, Interest and Attorney's Fees.** INDOT will in good faith perform its required obligations hereunder, and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law in part, I.C. 5-17-5, I.C. 34-54-8, and I.C. 34-13
- N. Severability.** The invalidity of any section, subsection, clause or provision of the Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of the Contract.
- O. Status of Claims.** The LPA shall be responsible for keeping INDOT currently advised as to the status of any claims made for damages against the LPA resulting from services performed under this Contract. The LPA shall send notice of claims related to work under this Contract to:

Chief Counsel
Indiana Department of Transportation
100 North Senate Avenue, Room N758
Indianapolis, Indiana 46204-2249

The remainder of this page is intentionally left blank.

Non-Collusion

The undersigned attests, subject to the penalties for perjury, that he/she is the LPA, or that he/she is the properly authorized representative, agent, member or officer of the LPA, that he/she has not, nor has any other member, employee, representative, agent or officer of the LPA, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Contract other than that which appears upon the face of this Contract.

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

LPA: City of Westfield

**STATE OF INDIANA
Department of Transportation**

Recommended for approval by:

Print or type name and title

Robert D. Cales, Director
Contract Administration Division

Date: _____

Signature and date

Executed by:

Print or type name and title

(FOR)

Brandye Hendrickson, Commissioner

Signature and date

Date: _____

Print or type name and title

Department of Administration

Signature and date

Jessica Robertson, Acting Commissioner

Date: _____

LPA DUNS #: _____

Attest

State Budget Agency

Auditor or Clerk Treasurer

Brian E. Bailey, Director

Date: _____

Approved as to Form and Legality:

This instrument prepared by:

Ellen Hite

November 15, 2016

(FOR)

Gregory F. Zoeller, Attorney General of Indiana

Date: _____

ATTACHMENT A
PROJECT DESCRIPTION

Des. No.: **1401650**
Program: **Federal Exchange Funds**
Type of Project: **New Road Construction**
Location: **Westfield Blvd.**

A general scope/description of the Project is as follows:

The **\$ 4,500,000.00** not to exceed amount is for the Preliminary Engineering, Right of Way and Construction (including Construction Engineering) phases.

A project for new road construction on Westfield Blvd., from the Poplar and Jersey Street intersection, running south to 169th Street, in the City of Westfield, Hamilton County, Indiana.

ATTACHMENT B

LPA'S RIGHTS AND DUTIES

In addition to any other rights and duties required by Indiana or federal law, regulations, rules, policies or procedures, or described elsewhere in this Contract, the following are the LPA's rights and duties under this Contract for the Project.

1. Pursuant to Indiana Code § 36-9-42.2, the LPA has requested and intends to use state funds instead of federal funds to partially pay for the Project. The LPA shall use sound engineering practices for the design of the Project. The LPA should complete the Project in accordance with INDOT's Design Manual (See http://www.in.gov/indot/design_manual/) and all pertinent state and federal laws, regulations, policies and guidance.
2. The LPA or its consultant should prepare the environmental document(s) for the Project in accordance with INDOT's Environmental Manual (See <http://www.in.gov/indot/2523.htm>.) and all pertinent state and federal laws, regulations, policies and guidance.
3. The LPA acknowledges that in order for the cost of consultant services to be eligible for state funds, the consultant selection must be accordance with INDOT's consultant selection procedure.
4. REQUIREMENTS FOR ADDITIONAL CONTRACTS
 - A. If the LPA wishes to contract with a consultant, contractor or other agent to complete work on the Project, LPA may:
 1. use the "LPA-CONSULTANT Agreement", which is found at <http://www.in.gov/indot/283.htm> and is incorporated by reference; or
 2. use a form of agreement that has been reviewed and approved by INDOT.
5. The LPA agrees to provide all relevant documents including, but not limited to, all plans, specifications and special provisions, to INDOT for review and approval, and such approval will not be unreasonably withheld. If INDOT does not approve an LPA submittal, the LPA shall cause the submittal to be modified in order to secure INDOT's approval. The LPA understands that if it fails to provide a submittal, submits it late, or the submittal is not approvable, the schedule, cost, and state funds for the Project may be jeopardized.
6. The LPA agrees to complete all right-of-way acquisition, utility coordination, railroad coordination, and acquire the necessary permit(s) and submit documentation of such to INDOT. The utility coordination shall be in accordance with 105 IAC 13.
7. The LPA shall also be responsible for all costs associated with additional provisions and/or expenses in excess of the state funds allocated to the project.
8. The LPA shall provide competent and adequate engineering, testing, and inspection service to ensure the performance of the work is in accordance with the construction contract, plans and specifications and any special provisions or approved change orders. If, in INDOT's opinion, the services enumerated in this section are deemed to be incompetent or inadequate or are otherwise insufficient or if a dispute arises, INDOT may withhold reimbursement of state funds for this work.

9. If INDOT should require reports, the LPA shall submit reports, including but not limited to quarterly reports, to INDOT regarding the project's progress and the performance of work per INDOT standard reporting methods. If the required reports are not submitted, state funds may be withheld.
10. If INDOT finds violations of this contract, state or federal law, or otherwise denies or withholds state funds (hereinafter called a citation or cited funds) for any reason and for all or any part of the Project, the LPA agrees as follows:
 - a. In the case of correctable noncompliance, the LPA shall make the corrections in a reasonable amount of time. If the LPA fails to do so, paragraph 14.b. and/or 14.c. below, as applicable, shall apply.
 - b. In case a citation for noncompliance is not correctable or if correctable and the LPA does not make any corrections, this paragraph shall apply and adjustments shall be made as follows:
 1. The LPA shall reimburse INDOT the total amount of costs.
 - c. If INDOT issues a citation denying or withholding all or any part of construction costs due to LPA noncompliance with requirements, and construction work was or is in progress, the following shall apply:
 1. INDOT may elect to terminate, suspend, or continue reimbursement of the construction work.
 2. In the case of correctable noncompliance, the LPA shall make the corrections in a reasonable amount of time to the satisfaction of INDOT.
 3. In case the noncompliance is not correctable, or if correctable and the LPA does not make any corrections, or if correctable and the LPA makes corrections that are not acceptable to INDOT, or for whatever reason the citation continues in force beyond a reasonable amount of time, and construction work has been terminated or suspended, the LPA agrees to reimburse INDOT the full amount it paid for said construction work, less the amount of state funds allowed by INDOT.
 - d. In any case, the LPA shall reimburse INDOT the total cost of the Project, not eligible for state reimbursement.
 - e. If for any reason, the LPA is required to repay to INDOT the sum or sums of state funds paid to the LPA under the terms of this Contract, then the LPA shall repay to INDOT such sum or sums within forty-five (45) days after receipt of a billing from INDOT. Payment for any and all costs incurred by the LPA which are not eligible for state funding shall be the sole obligation of the LPA.

ATTACHMENT C

INDOT'S RIGHTS AND DUTIES

In addition to any other rights and duties required by Indiana or federal law or regulations or described elsewhere in this Contract, the following are INDOT's rights and duties under the Contract:

1. INDOT shall have the option to access and to inspect all plans, specifications and special provisions for the Project regardless of when those plans, specifications, special provisions or other such Project documents were created.
2. The LPA shall let and award the construction contract for the Project according to applicable laws and rules.
3. INDOT shall have the right and opportunity to inspect any construction under this Contract to determine whether the construction is in conformance with the plans and specifications for the Project.

ATTACHMENT D

PROJECT FUNDS

I. Project Costs.

A. Pursuant to Indiana Code § 36-9-42.2 state Funds made available to the LPA by INDOT will be used to pay **75 % of the eligible Project costs** that had been approved for federal funding. The maximum amount of state funds allocated to the Project is **\$ 4,500,000.00.**

B. The remainder of the Project cost shall be borne by the LPA. For the avoidance of doubt, INDOT shall not pay for any costs relating to the Project unless the PARTIES have agreed in a document (which specifically references section I.D. of Attachment D of this contract) signed by an authorized representative of INDOT, the Indiana Department of Administration, State Budget Agency, and the Attorney General of Indiana.

II. Billings.

- A. The LPA shall pay the LPA's contractor and then shall seek reimbursement from INDOT for actual costs expended, less the 10% local match, not to exceed the amount listed in Section I.A. above.
- B. The LPA understands time is of the essence regarding the Project timeline and costs and delays in payment may cause substantial time delays and/or increased costs for the Project.

III. Repayment Provisions.

If for any reason INDOT finds non compliance and requires a repayment of state funds previously reimbursed the LPA is required to submit such sum or sums within thirty (3) days after receipt of a billing from INDOT. If the LPA has not paid the full amount due within sixty (60) calendar days past the due date, INDOT may proceed in accordance with I.C. 8-14-1-9 to compel the Auditor of the State of Indiana to make a mandatory transfer of funds for the LPA's allocation of the Motor Vehicle Highway Account to INDOT's account until the amount due has been repaid.



**City of Westfield Fire Department
Board of Public Works & Safety Report
October 1st – October 31st, 2016**

**Contact: Fire Chief
Marcus Reed
or Nikki Hartman
804-3304**

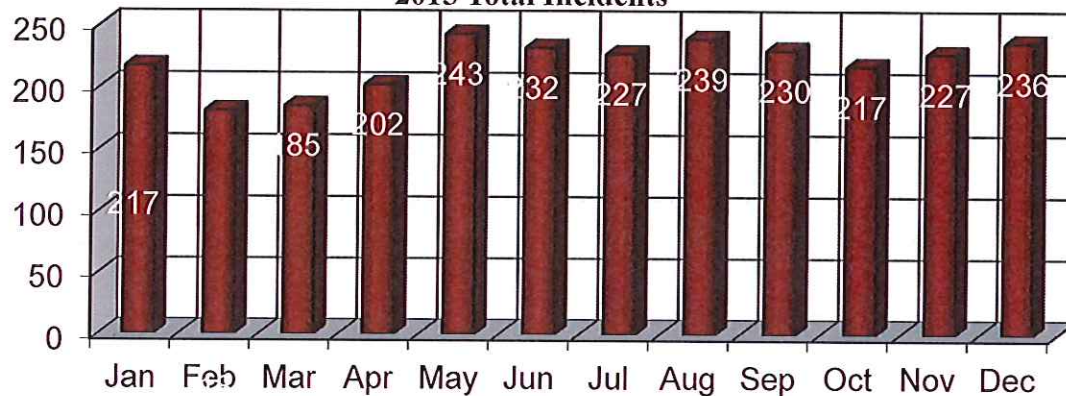


Westfield Fire Department 2015 Incident Statistics By Fire / Medical Groups

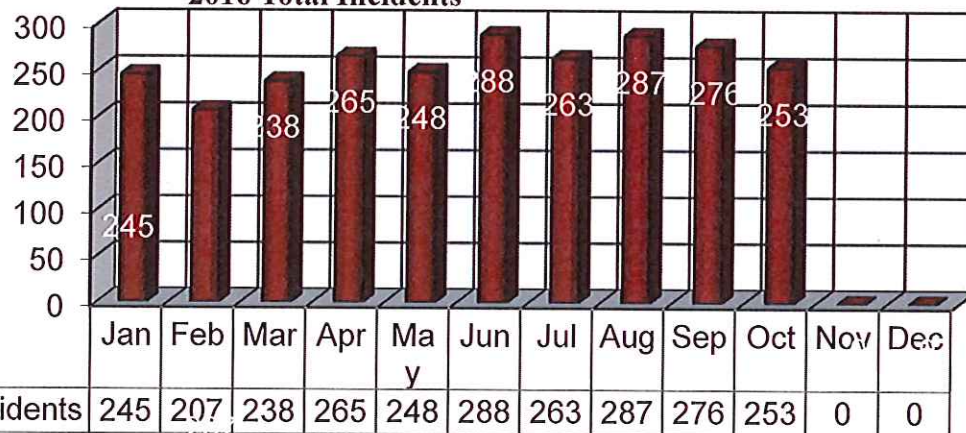


	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec		
Total WFD Fire Incidents	84	83	91	115	94	129	109	119	101	97			1022	39.8%
Total WFD Medical Incidents	161	124	147	150	154	159	154	168	175	156			1548	60.2%
Total WWFD Incidents	245	207	238	265	248	288	263	287	276	253	0	0	2570	100%

Westfield Fire Department
2015 Total Incidents

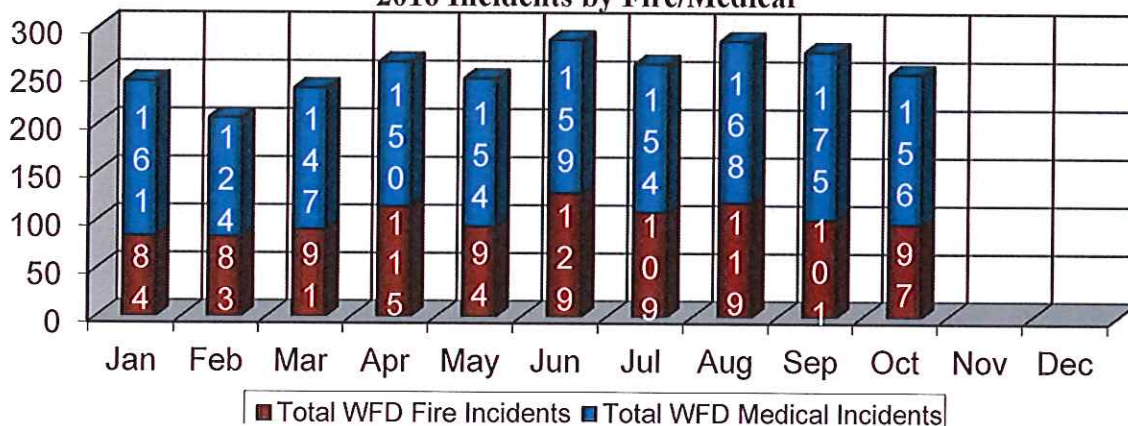


Westfield Fire Department
2016 Total Incidents



■ Total WWFD Incidents	245	207	238	265	248	288	263	287	276	253	0	0
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Westfield Fire Department
2016 Incidents by Fire/Medical



■ Total WFD Fire Incidents ■ Total WFD Medical Incidents



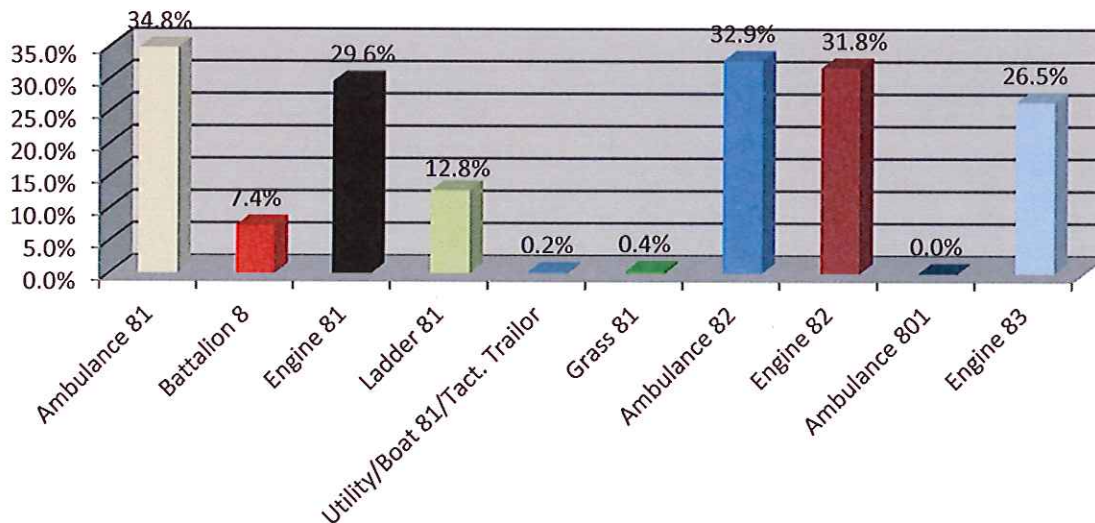
Westfield Fire Department 2016 Total Apparatus Responses By Unit & Station



<u>Station 81 Responses</u>	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Totals	%
Ambulance 81	87	59	80	90	95	109	81	94	108	91			894	34.8%
Battalion 8	15	25	14	13	16	27	18	21	18	22			189	7.4%
Engine 81	63	58	55	80	85	96	73	83	85	83			761	29.6%
Ladder 81	20	33	32	36	36	40	28	41	32	30			328	12.8%
Utility/Boat 81/Tact. Trailor	0	-	-	1	1	1	1	-	-	1			5	0.2%
Grass 81	0	1	-	1	1	1	-	1	-	5			10	0.4%
EMS 80	0	-	-	-	-	-	1	-	-	1			2	0.1%

<u>Station 82 Responses</u>	Jan	Feb	March	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Totals	%
Ambulance 82	82	84	91	75	76	83	97	91	80	86			845	32.9%
Engine 82	73	76	81	81	75	86	90	93	86	75			816	31.8%
Ambulance 801	0	-	-	-	-	-	1	-	-	-			1	0.0%
<u>Station 83 Responses</u>													Totals	%
Engine 83	61	57	60	74	60	84	71	74	64	76			681	26.5%

Westfield Fire Department 2016 Total Apparatus Responses



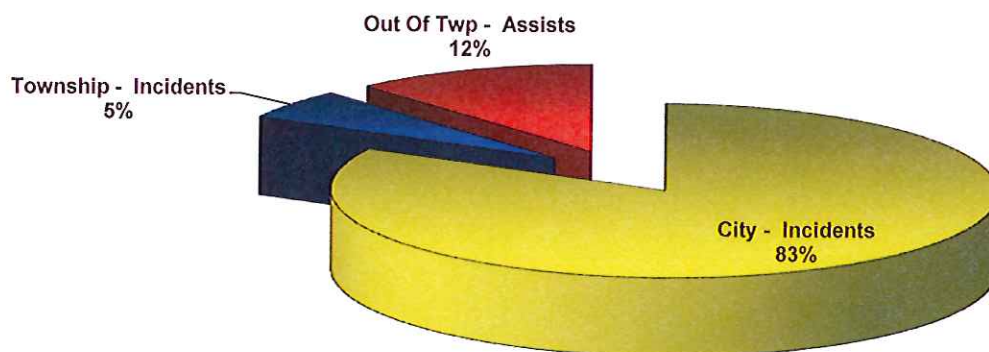


Westfield Fire Department 2016 Fire/Medical Incidents By Governmental Area

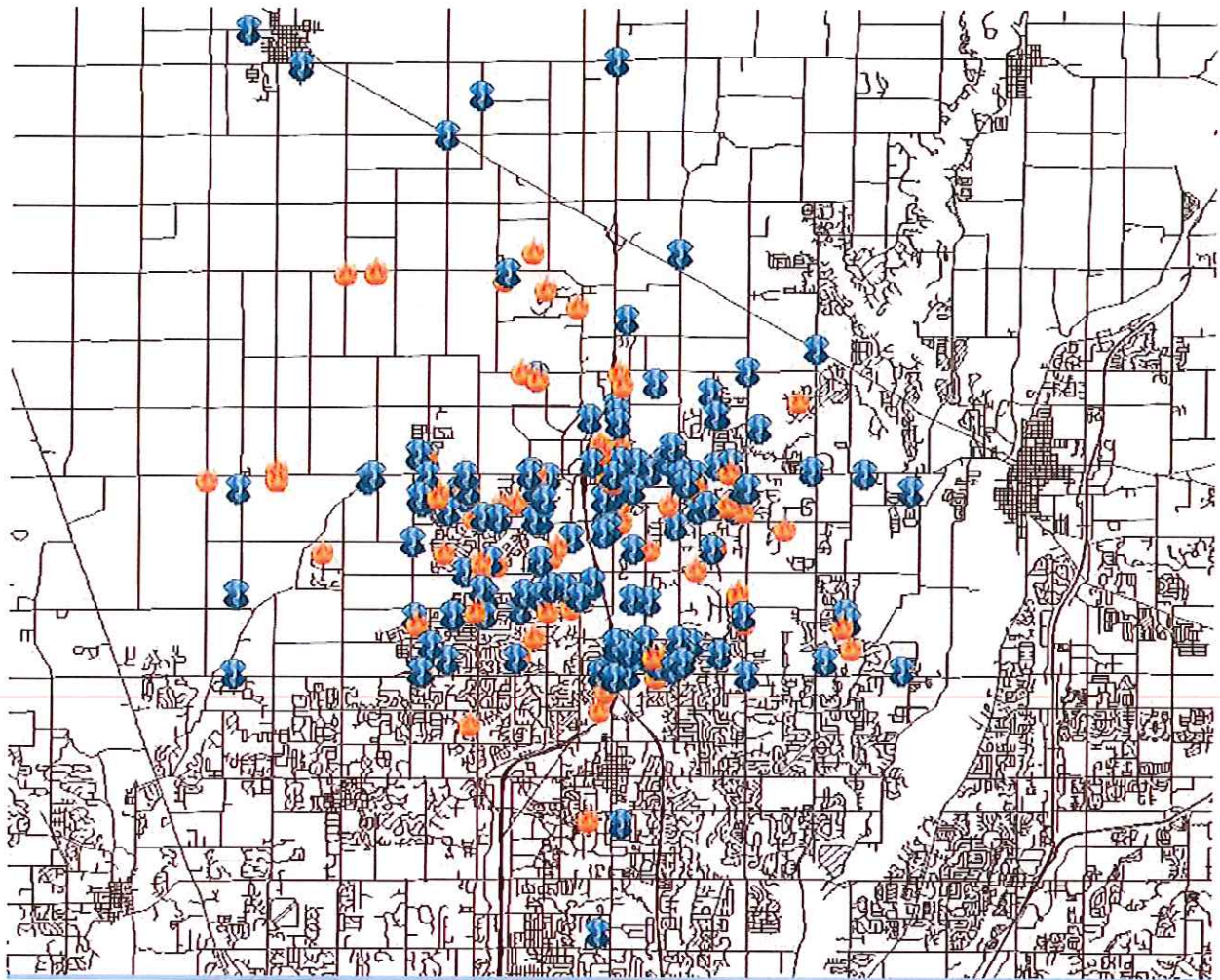


2015 Incidents	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Totals	%
City - Incidents	204	177	212	216	213	229	209	236	217	210			2123	82.6%
Township - Incidents	7	7	5	14	12	29	17	16	16	20			143	5.6%
Out Of Twp - Assists	34	23	22	33	23	30	37	35	43	23			303	11.8%

Westfield Fire Department 2016 Incidents by Governmental Areas



■ City - Incidents
 ■ Township - Incidents
 ■ Out Of Twp - Assists



Fire and Medical Runs for the month of October, 2016

Westfield Fire Department

Kristen Custom Report

Alarm Date Between {10/01/2016} And {10/31/2016}

Incident Type	Count	Pct of Incidents	Total Est Loss	Pct of Losses
5 Service Call				
511 Lock-out	3	1.18%	\$0	0.00%
531 Smoke or odor removal	3	1.18%	\$0	0.00%
550 Public service assistance, Other	1	0.39%	\$0	0.00%
551 Assist police or other governmental agency	9	3.55%	\$0	0.00%
554 Assist invalid	5	1.97%	\$0	0.00%
561 Unauthorized burning	1	0.39%	\$0	0.00%
	<u>22</u>	<u>8.69%</u>	<u>\$0</u>	<u>0.00%</u>
6 Good Intent Call				
600 Good intent call, Other	1	0.39%	\$0	0.00%
611 Dispatched & cancelled en route	19	7.50%	\$0	0.00%
621 Wrong location	1	0.39%	\$0	0.00%
622 No Incident found on arrival at dispatch	2	0.79%	\$0	0.00%
671 HazMat release investigation w/no HazMat	2	0.79%	\$0	0.00%
	<u>25</u>	<u>9.88%</u>	<u>\$0</u>	<u>0.00%</u>
7 False Alarm & False Call				
700 False alarm or false call, Other	3	1.18%	\$0	0.00%
710 Malicious, mischievous false call, Other	1	0.39%	\$0	0.00%
733 Smoke detector activation due to	3	1.18%	\$0	0.00%
735 Alarm system sounded due to malfunction	1	0.39%	\$0	0.00%
736 CO detector activation due to malfunction	1	0.39%	\$0	0.00%
740 Unintentional transmission of alarm, Other	2	0.79%	\$0	0.00%
743 Smoke detector activation, no fire -	2	0.79%	\$0	0.00%
744 Detector activation, no fire -	1	0.39%	\$0	0.00%
745 Alarm system activation, no fire -	2	0.79%	\$0	0.00%
746 Carbon monoxide detector activation, no CO	1	0.39%	\$0	0.00%
	<u>17</u>	<u>6.71%</u>	<u>\$0</u>	<u>0.00%</u>

Total Incident Count: 253

Total Est Loss: \$200,150

Westfield Fire Department

Kristen Custom Report

Alarm Date Between {10/01/2016} And {10/31/2016}

Incident Type	Count	Pct of Incidents	Total Est Loss	Pct of Losses
	4	1.58%	\$0	0.00%
	4	1.58%	\$0	0.00%
1 Fire				
112 Fires in structure other than in a building	1	0.39%	\$0	0.00%
113 Cooking fire, confined to container	1	0.39%	\$150	0.07%
138 Off-road vehicle or heavy equipment fire	2	0.79%	\$200,000	99.92%
141 Forest, woods or wildland fire	1	0.39%	\$0	0.00%
142 Brush or brush-and-grass mixture fire	2	0.79%	\$0	0.00%
143 Grass fire	1	0.39%	\$0	0.00%
150 Outside rubbish fire, Other	1	0.39%	\$0	0.00%
151 Outside rubbish, trash or waste fire	4	1.58%	\$0	0.00%
160 Special outside fire, Other	1	0.39%	\$0	0.00%
	14	5.53%	\$200,150	100.00%
2 Overpressure Rupture, Explosion, Overheat(no fire)				
240 Explosion (no fire), Other	1	0.39%	\$0	0.00%
	1	0.39%	\$0	0.00%
3 Rescue & Emergency Medical Service Incident				
320 Emergency medical service, other	9	3.55%	\$0	0.00%
321 EMS call, excluding vehicle accident with	135	53.35%	\$0	0.00%
322 Motor vehicle accident with injuries	12	4.74%	\$0	0.00%
324 Motor Vehicle Accident with no injuries	1	0.39%	\$0	0.00%
340 Search for lost person, other	1	0.39%	\$0	0.00%
352 Extrication of victim(s) from vehicle	1	0.39%	\$0	0.00%
	159	62.84%	\$0	0.00%
4 Hazardous Condition (No Fire)				
400 Hazardous condition, Other	2	0.79%	\$0	0.00%
410 Combustible/flammable gas/liquid condition,	1	0.39%	\$0	0.00%
411 Gasoline or other flammable liquid spill	1	0.39%	\$0	0.00%
412 Gas leak (natural gas or LPG)	5	1.97%	\$0	0.00%
444 Power line down	1	0.39%	\$0	0.00%
445 Arcing, shorted electrical equipment	1	0.39%	\$0	0.00%
	11	4.34%	\$0	0.00%

Westfield Police Department

Monthly Performance Measures Report



Board of Public Works & Safety

October 2016

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WESTFIELD POLICE DEPARTMENT

October 2016

Events by Nature: Calls For Service (Non-Self-Initiated)

Abduction/ Kidnapping	0
Abuse/ Abandonment/Neglect	2
Admin- K-9 Detail	1
Admin- Log Information	0
Admin-Public Relations	4
Admin- Special Detail	0
Admin- Test Calls	0
Admin- Tow Release	3
Admin- Warning Correction	0
Alarm- Bank	2
Alarm- Business	50
Alarm- Residence	95
Animal- Complaints	57
Assault- Battery	6
Assault- Sexual	1
Assist- Fire Incident	4
Assist- Medical Incident	12
Assist- Other Agencies	36
Bomb Found/ Suspicious Pkg	2
Burglary/ Home Invasion	8
Damage/ Vandalism/ Mischief	7
Deceased- All Others	0
Disturbance	33
Drugs- Complaint	7
Fight	3
Fireworks Complaint	0
Fraud- Criminal Deception	0
Fraud- Forgery	16
Fraud- Prescription	0
Harassment/ Stalking/ Threat	24
Indecency / Lewdness	2
Intoxicated- Possible DUI	13
Loud Party	2
Mental/ Emotional	20
Miscellaneous	8
Noise Complaint	26
Nuisance	0
Person - Missing	4

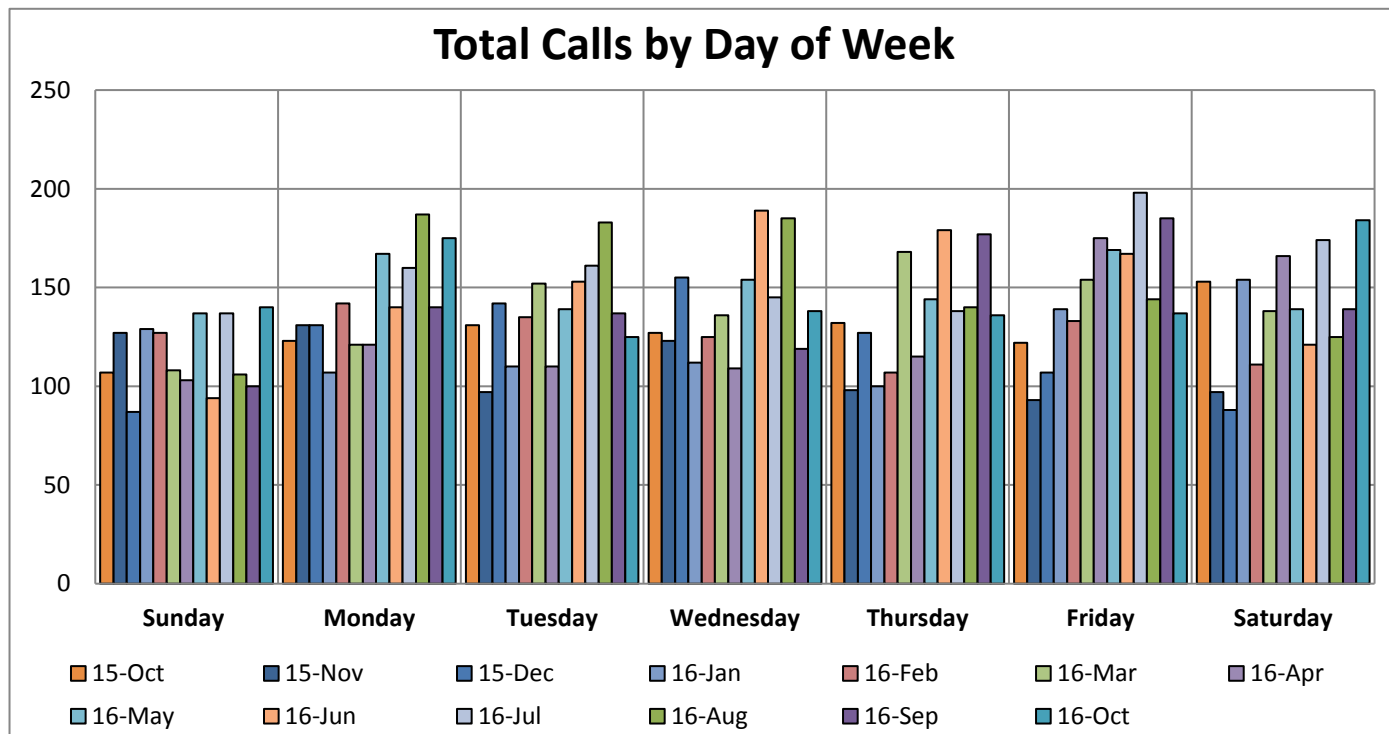
Person- Runaway	2
Robbery-Carjacking	0
Service Call- 9-1-1 Hang Up	22
Service Call- Damage to Property	5
Service Call- Found Property	11
Service Call- Keep the Peace	35
Service Call- Lost Property	4
Service Call- Notification	2
Service Call- Security Check	17
Service Call- Vehicle Lockout	64
Service Call- Vin Check	24
Service Call- Welfare Check	36
Suicidal- Attempted	1
Suicidal- Persons Threatening	2
Supplemental- Case Follow Up	59
Suspicious- Noises	5
Suspicious- Open Door/ Window	0
Suspicious- Person/Prowler	36
Suspicious- Solicitor	4
Suspicious- Vehicle	37
Theft- From a Vehicle	4
Theft- Of a Vehicle	0
Theft- Others	26
Theft- Shoplifting	8
Trespassing/ Unwanted Person	1
Trfc Complaint - Abandoned Veh	11
Trfc Complaint- Driving Issues	38
Trfc Complaint- Parking Issues	12
Trfc Hazard- Debris in Road	11
Trfc Hazard- Disabled Vehicle	15
Trfc Hazard- Trfc Signal Out	4
Trnsprtn Acdnt- MV Hit & Run	8
Trnsprtn Acdnt- MV Prop Damg	55
Trnsprtn Acdnt- MV Prsnl Inj	12
Verbal Argument	1
Warrant Service	6
Weapons- Person Carrying	1
Weapons- Shots Fired	0

WESTFIELD POLICE DEPARTMENT

October 2016

Total # of Calls by Day of Week (non-self initiated)

DAY	15-Oct	15-Nov	15-Dec	16-Jan	16-Feb	16-Mar	16-Apr	16-May	16-Jun	16-Jul	16-Aug	16-Sep	16-Oct
Sunday	107	127	87	129	127	108	103	137	94	137	106	100	140
Monday	123	131	131	107	142	121	121	167	140	160	187	140	175
Tuesday	131	97	142	110	135	152	110	139	153	161	183	137	125
Wednesday	127	123	155	112	125	136	109	154	189	145	185	119	138
Thursday	132	98	127	100	107	168	115	144	179	138	140	177	136
Friday	122	93	107	139	133	154	175	169	167	198	144	185	137
Saturday	153	97	88	154	111	138	166	139	121	174	125	139	184
TOTAL	895	766	837	851	880	977	899	1049	1043	1113	1070	997	1035



WESTFIELD POLICE DEPARTMENT

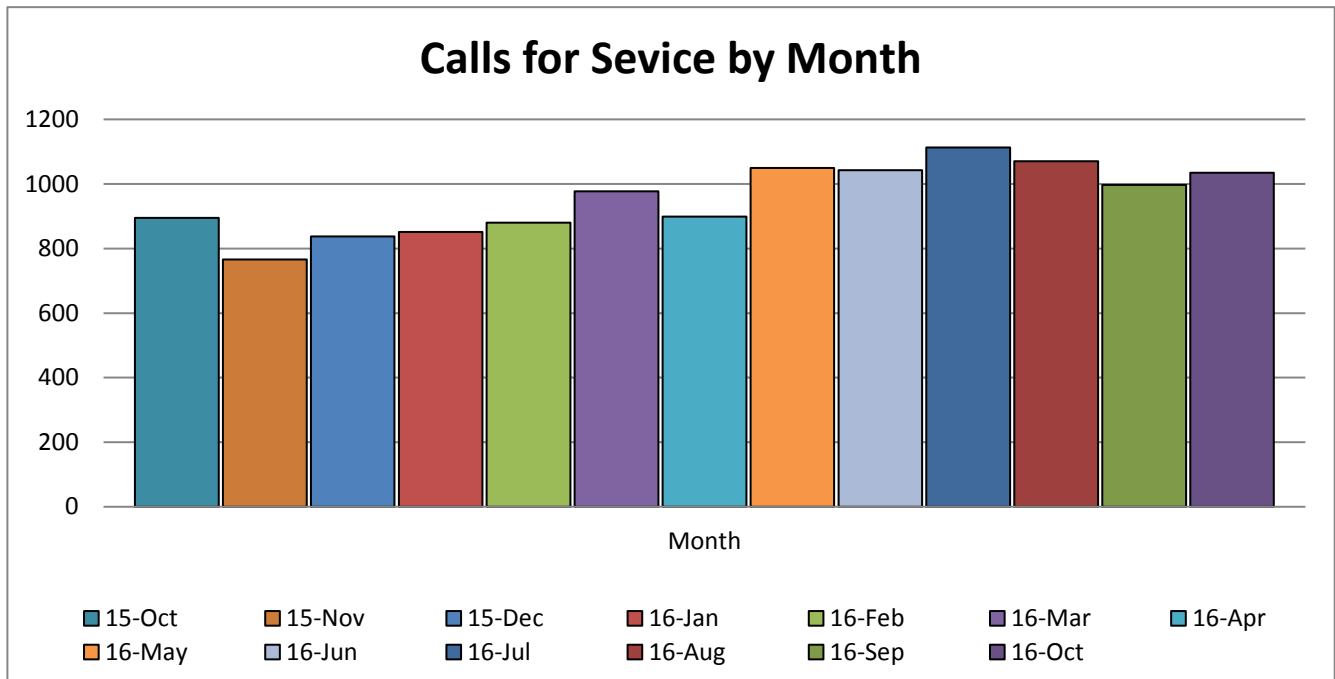
October 2016

Total # of Calls by Hour of Day (non-self initiated)

HOURL	15-Oct	15-Nov	15-Dec	16-Jan	16-Feb	16-Mar	16-Apr	16-May	16-Jun	16-Jul	16-Aug	16-Sep	16-Oct
0	19	30	25	22	20	26	19	12	26	39	24	23	21
1	14	10	17	14	10	11	11	10	16	26	21	20	15
2	12	9	12	17	9	12	7	12	12	17	11	14	19
3	10	9	15	15	10	10	8	9	15	12	11	13	12
4	12	13	12	10	9	10	9	12	8	14	12	7	7
5	8	6	13	13	8	8	12	9	13	22	11	15	10
6	16	8	18	19	15	13	5	13	17	12	14	28	21
7	28	25	28	30	20	31	34	24	29	32	32	41	32
8	33	25	32	44	39	46	38	40	33	50	51	39	37
9	41	31	41	43	34	47	49	44	47	38	50	37	52
10	40	35	49	50	49	45	49	66	59	54	53	40	53
11	48	41	49	49	49	59	45	69	68	56	70	47	51
12	53	48	57	33	46	46	42	64	70	67	51	61	59
13	51	56	37	48	52	62	64	65	82	60	57	63	63
14	65	44	48	58	69	57	47	70	64	58	51	61	71
15	66	62	56	68	71	69	72	63	63	72	83	47	70
16	69	43	56	51	60	60	56	73	55	71	68	59	54
17	56	50	53	47	69	85	72	73	60	63	71	79	84
18	56	60	48	54	60	81	54	68	61	56	68	76	64
19	52	41	50	38	51	49	47	58	60	64	59	60	68
20	44	29	32	38	39	48	52	48	45	61	58	54	48
21	32	38	38	32	32	36	41	57	52	62	61	50	45
22	40	23	33	29	34	40	37	38	52	65	38	33	46
23	30	30	18	29	25	26	29	52	36	42	45	30	33
TOTAL	895	766	837	851	880	977	899	1049	1043	1113	1070	997	1035

WESTFIELD POLICE DEPARTMENT

October 2016



WESTFIELD POLICE DEPARTMENT

October 2016

UCR OFFENSES

OFFENSE	15-Oct	15-Nov	15-Dec	16-Jan	16-Feb	16-Mar	16-Apr	16-May	16-Jun	16-Jul	16-Aug	16-Sep	16-Sep
Arson	0	0	0	0	0	0	0	0	0	0	0	0	0
Homicide	0	0	0	0	0	0	0	0	0	0	0	0	0
Rape	0	0	0	0	0	0	0	1	0	0	0	0	1
Robbery	0	0	0	0	0	0	0	0	0	0	0	0	0
Battery - Aggravated	0	1	5	1	4	3	0	2	0	0	2	0	6
Battery - Simple	14	14	19	14	10	15	11	11	11	13	23	18	10
Burglary	3	3	2	4	2	1	1	2	2	1	5	3	0
Theft	24	25	29	27	19	30	32	44	37	44	30	25	31
Motor Vehicle Theft	2	2	1	2	0	0	2	1	2	1	1	3	1
TOTAL	43	45	56	48	35	49	46	61	52	59	61	49	49

WESTFIELD POLICE DEPARTMENT

October 2016

NON UCR OFFENSES (PART II)

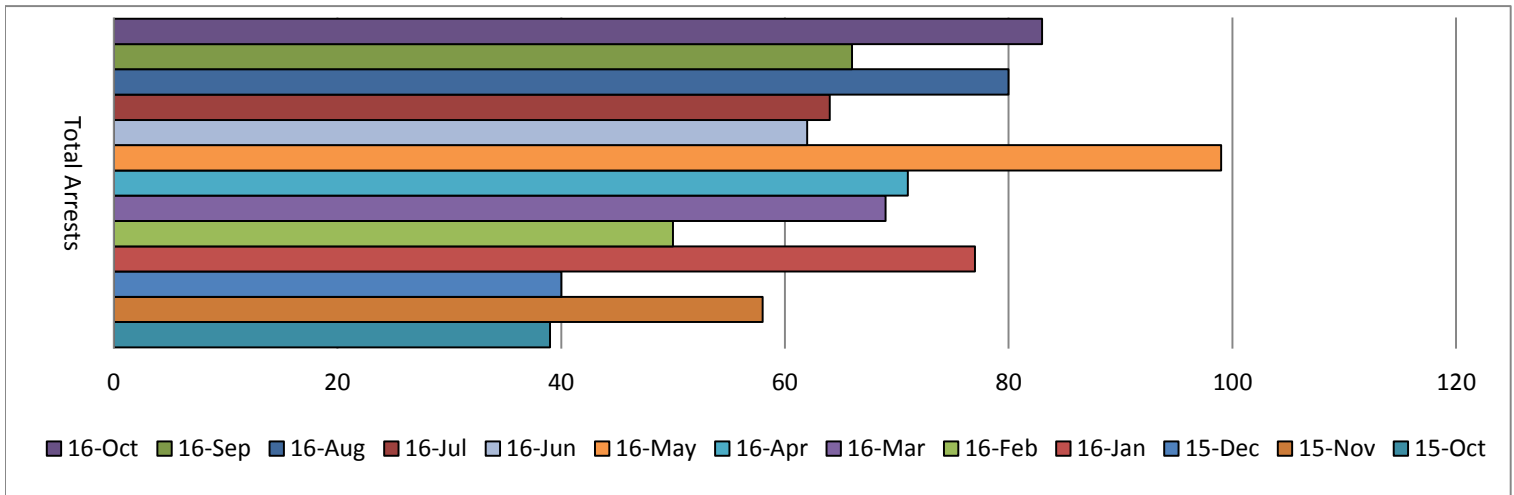
ANIMALS/ INCLUDING DOG BITES	8
ASSIST OTHER AGENCY	1
CHILD ABUSE / NEGLECT REPORTED	7
CHILD CUSTODY DISPUTE	1
CIVIL DISPUTE	7
CRIMINAL MISCHIEF/VANDALISM	5
DAMAGED PROPERTY	4
DEATHS OTHER THAN HOMICIDE/SUICIDE	3
DISORDERLY CONDUCT	4
DISTURBANCE/ARGUMENTS/FIGHTS	18
DRIVING WHILE SUSPENDED	7
DRUG ABUSE VIOLATIONS	0
FIRES / UNDETERMINED	1
FRAUD	14
HARASSMENT	0
IDENTITY THEFT	1
JUVENILE COMPLAINT	3

LEAVING THE SCENE	11
LIQUOR LAW VIOLATIONS	2
MISSING PERSON	1
NOISE COMPLAINT	0
OPERATING WHILE INTOXICATED	17
OPERATING WITH NO LICENSE	16
PROPERTY FOUND	10
PROPERTY LOST	2
RUNAWAY	3
SUICIDE/ATTEMPTS/THREATS OF	6
SUSPICIOUS INCIDENT/PERSON	8
THREATS/INTIMIDATION	0
TRAFFIC VIOLATIONS	2
TRESPASSING	0
WARRANT ARREST	1
WEAPON VIOLATION	1
WELFARE CHECK	4

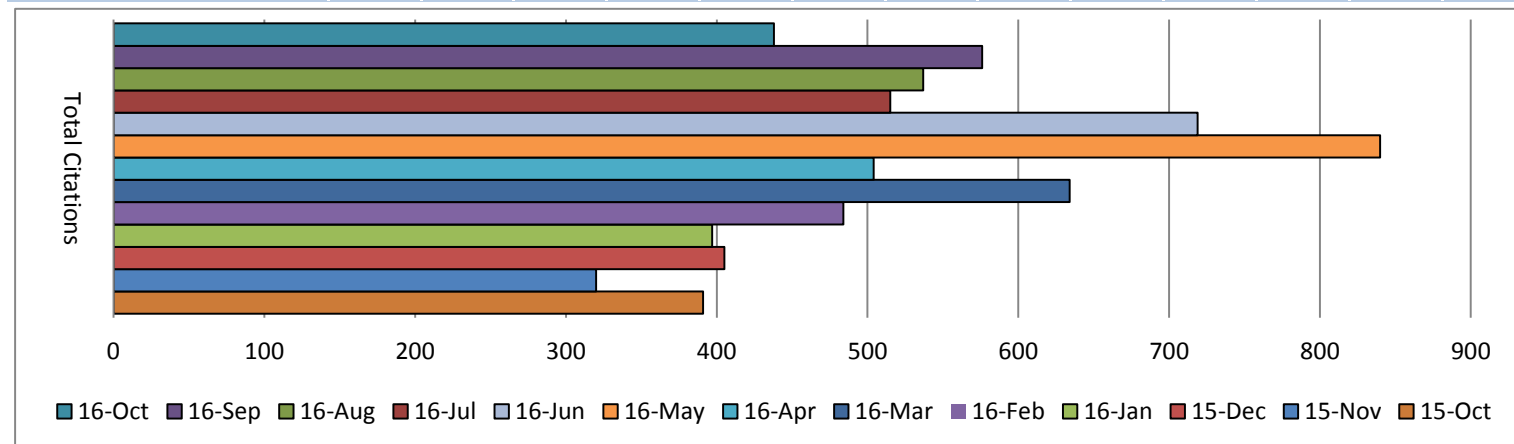
WESTFIELD POLICE DEPARTMENT

October 2016

Arrest Reports Taken	15-Oct	15-Nov	15-Dec	16-Jan	16-Feb	16-Mar	16-Apr	16-May	16-Jun	16-Jul	16-Aug	16-Sep	16-Oct
Alcohol/ Drug Related	21	18	13	36	21	22	29	50	23	37	32	26	33
Felony Charges	5	8	7	15	14	23	8	27	17	18	17	9	20
Misdemeanor Charges	53	65	52	73	66	81	102	131	86	83	94	74	106
Traffic Arrest Charges	20	33	33	39	40	40	54	56	51	41	51	48	87
Total Arrests	39	58	40	77	50	69	71	99	62	64	80	66	83



Traffic	15-Oct	15-Nov	15-Dec	16-Jan	16-Feb	16-Mar	16-Apr	16-May	16-Jun	16-Jul	16-Aug	16-Sep	16-Oct
Total Citations	391	320	405	397	484	634	504	840	719	515	537	576	438
Total Written Warnings	706	820	927	994	890	1232	1094	1307	1366	1211	1205	1481	1112
Total Traffic Accidents	49	54	52	66	56	46	45	45	60	45	62	65	66
<i>Hit and Run</i>	3	5	3	9	5	4	6	8	8	6	4	4	8
<i>Personal Injury</i>	6	4	14	6	7	7	8	7	9	6	12	10	11
<i>*Fatality</i>	0	0	0	0	0	0	0	0	0	0	0	0	0
<i>Property Damage</i>	40	45	35	51	44	35	31	30	43	33	46	51	47

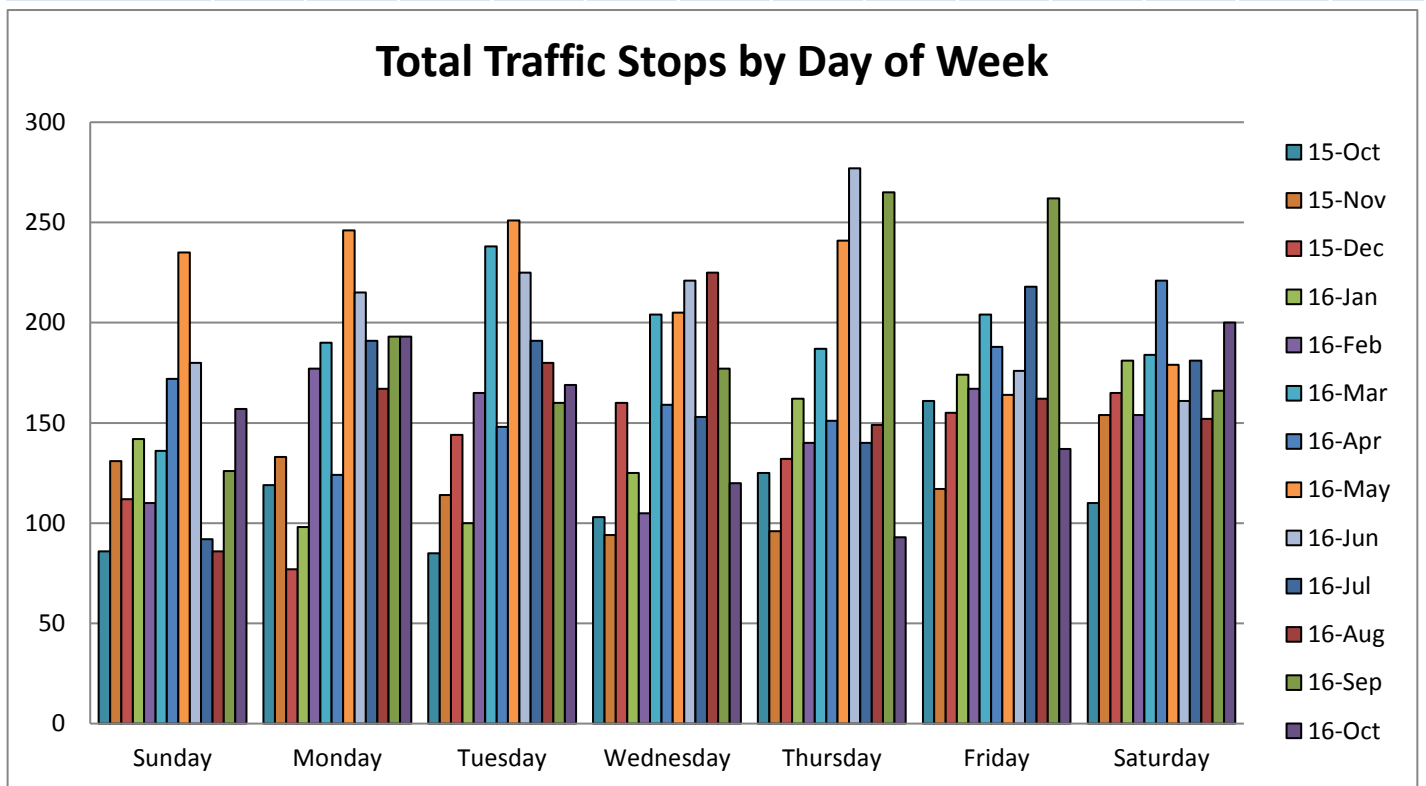


WESTFIELD POLICE DEPARTMENT

October 2016

Traffic Stops: SELF INITIATED by Day of Week

Day:	15-Oct	15-Nov	15-Dec	16-Jan	16-Feb	16-Mar	16-Apr	16-May	16-Jun	16-Jul	16-Aug	16-Sep	16-Oct
Sunday	86	131	112	142	110	136	172	235	180	92	86	126	157
Monday	119	133	77	98	177	190	124	246	215	191	167	193	193
Tuesday	85	114	144	100	165	238	148	251	225	191	180	160	169
Wednesday	103	94	160	125	105	204	159	205	221	153	225	177	120
Thursday	125	96	132	162	140	187	151	241	277	140	149	265	93
Friday	161	117	155	174	167	204	188	164	176	218	162	262	137
Saturday	110	154	165	181	154	184	221	179	161	181	152	166	200
TOTAL	789	839	945	982	1018	1343	1163	1521	1455	1166	1121	1349	1069



WESTFIELD POLICE DEPARTMENT

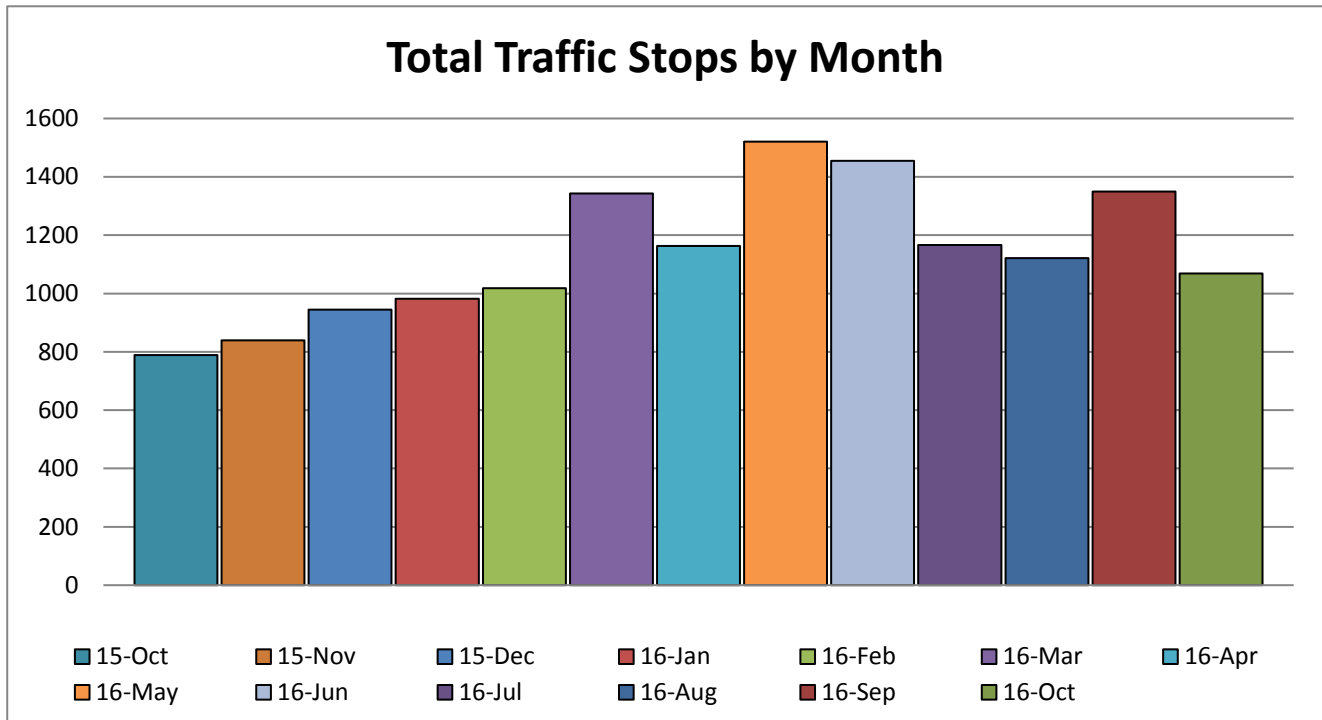
October 2016

Traffic Stops: SELF INITIATED by Hour of Day

Hour:	15-Oct	15-Nov	15-Dec	16-Jan	16-Feb	16-Mar	16-Apr	16-May	16-Jun	16-Jul	16-Aug	16-Sep	16-Oct
0	36	32	35	39	31	61	37	47	70	61	47	70	57
1	19	16	23	19	22	35	25	40	34	41	38	40	39
2	17	9	9	20	11	15	20	15	19	17	11	21	23
3	3	5	6	11	8	15	12	9	2	6	10	16	19
4	3	0	9	9	11	28	11	20	11	6	8	9	20
5	14	12	9	3	4	9	10	18	22	7	5	17	11
6	10	25	12	22	29	28	22	44	39	47	23	28	22
7	58	58	50	55	57	83	86	103	69	60	77	47	50
8	47	92	75	50	58	93	59	84	90	28	62	80	56
9	40	40	33	33	59	77	70	78	75	76	52	63	48
10	63	64	78	53	78	86	93	120	140	116	97	114	79
11	26	30	50	34	54	57	54	79	82	73	56	56	53
12	34	35	30	27	38	43	33	63	51	39	30	41	31
13	49	44	46	55	57	59	84	96	77	47	68	55	67
14	46	30	55	52	55	81	101	109	71	67	63	72	45
15	27	31	54	46	43	63	54	88	65	60	60	74	44
16	21	39	46	28	38	51	39	67	58	32	26	44	31
17	30	30	42	40	54	53	49	61	55	39	35	48	23
18	79	74	89	118	88	112	86	126	130	96	98	101	61
19	52	59	58	107	63	97	60	102	93	63	54	96	67
20	13	12	15	14	19	18	19	17	6	8	28	49	37
21	29	23	30	25	41	33	45	30	41	29	42	47	50
22	40	42	41	65	55	58	53	55	81	76	71	71	63
23	33	37	50	57	45	88	41	50	74	72	60	90	73
TOTAL	789	839	945	982	1018	1343	1163	1521	1455	1166	1121	1349	1069

WESTFIELD POLICE DEPARTMENT

October 2016



**Westfield Police Department
Community Events
October 2016**

10/5 2016 Indiana Association of Cities and Towns Annual Conference & Exhibition – Lt. Seagrave spoke about Citizens Academy

10/10 Cub Scout Meeting – Officer Gehlhausen

10/11-13 Bridgewater Primrose Police Department Visit – Lt. Gorrell

10/17 City Connection

10/17 & 18 WestClay Primrose Police Department Visit – Lt. Gorrell

10/22 Crossroads Church Fall Festival

**Westfield Police Department
Monthly Training Summary
October 2016**

10/3-7 ChildFirst Forensic Interviewing – Det. Howard

10/3-6 Department Radar recertification

10/10-14 IMPD Basic Detective School – Det. Howard

10/15 Emergency Medical Classes – Officer Meier

10/15-16 Retention and Disarming – Officer Larrison

10/25-26 Managing the Property and Evidence Room – CSI Kautzman

10/26 Five Keys to Successful Negotiation – Chief Rush, Asst. Chief Jordan and Capt. Lowes

From: Michael D. Blech mblech@westfield.in.gov
Subject: uniform conflict of interest disclosure statement
Date: August 25, 2016 at 4:42 PM
To: Diana Peyton dpeyton@westfield.in.gov

MB

Is there anything else you need with this? Thanks Blech

(2/93)

Form 236

UNIFORM CONFLICT OF INTEREST DISCLOSURE STATEMENT

Indiana Code 35-44-1-3

A public servant who knowingly or intentionally has a pecuniary interest in or derives a profit from a contract or purchase connected with an action by the governmental entity served by the public servant commits conflict of interest, a Class D Felony. A public servant has a pecuniary interest in a contract or purchase if the contract or purchase will result or is intended to result in an ascertainable increase in the income or net worth of the public servant or a dependent of the public servant who is under the direct or indirect administrative control of the public servant; or receives a contract or purchase order that is reviewed, approved, or directly or indirectly administered by the public servant. "Dependent" means any of the following: the spouse of a public servant; a child, stepchild, or adoptee (as defined in I.C. 31-3-4-1) of a public servant who is unemancipated and less than eighteen (18) years of age; and any individual more than one-half (1/2) of whose support is provided during a year by the public servant.

The foregoing consists only of excerpts from I.C. 35-44-1-3. Care should be taken to review I.C. 35-44-1-3 in its entirety.

1. Name and Address of Public Servant Submitting Statement: Michael Blech
2001 Cheyenne Cir Westfield, IN 46074
2. Title or Position With Governmental Entity: firefighter
3. a. Governmental Entity: City of Westfield
b. County: Hamilton
4. This statement is submitted (check one):
 - a. ☐ as a "single transaction" disclosure statement, as to my financial interest in a specific contract or purchase connected with the governmental entity which I serve, proposed to be made by the governmental entity with or from a particular contractor or vendor; or
 - b. ☒ as an "annual" disclosure statement, as to my financial interest connected with any contracts or purchases of the governmental entity which I serve, which are made on an ongoing basis with or from particular contractors or vendors.
5. Name(s) of Contractor(s) or Vendor(s): Five Point Emergency Lighting
6. Description(s) of Contract(s) or Purchase(s) (Describe the kind of contract involved, and the effective date and term of the contract or purchase if reasonably determinable. Dates required if 4(a) is selected above. If "dependent" is involved, provide dependent's name and relationship):
Sale of upfiring Emergency lights in city vehicles.

7. **Description of My Financial Interest** (Describe in what manner the public servant or "dependent" expects to derive a profit or financial benefit from, or otherwise has a pecuniary interest in, the above contract(s) or purchase(s); if reasonably determinable, state the approximate dollar value of such profit or benefit.):

Will charge labor rate of up to my vehicle for
prob. I am president of company doing work.
I will bid for jobs at City of Westfield.

(Attach extra pages if additional space is needed)

8. **Approval of Appointing Officer or Body** (To be completed if the public servant was appointed by an elected public servant or the board of trustees of a state-supported college or university):

I (We) being the _____ of
(Title of Officer or Name of Governing Body)

_____ and having the power to appoint
(Name of Governmental Entity)

the above named public servant to the public position to which he or she holds, hereby approve the participation to the appointed disclosing public servant in the above described contract(s) or purchase(s) in which said public servant has a conflict of interest as defined in Indiana Code 35-44-1-3; however, this approval does not waive any objection to any conflict prohibited by statute, rule, or regulation and is not to be construed as a consent to any illegal act.

Elected Official

Office

9. **Effective Dates** (Conflict of interest statements must be submitted to the governmental entity prior to final action on the contract or purchase.):

8-25-2016

Date Submitted

8-29-2016

Date of Action on Contract or Purchase

10. **Affirmation of Public Servant:** This disclosure was submitted to the governmental entity and accepted by the governmental entity in a public meeting to the governmental entity prior to final action on the contract or purchase. I affirm, under penalty of perjury, the truth and completeness of the statements made above, and that I am the above named public servant.

Signed: _____

(Signature of Public Servant)

Date: _____

8-25-2016

Within 15 days after final action on the contract or purchase, copies of this statement must be filed with the State Board of Accounts, Indiana Government Center South, 302 West Washington Street, Room E418, Indianapolis, Indiana, 46204-2765 and the Clerk of the Circuit Court of the county in which the governmental entity executed the contract or purchase. A copy of this disclosure will be forwarded to the Indiana State Ethics Commission.



November 30, 2016

Public Works

Jeremy Lollar, Director
Angie Smitherman, Administration
Phil Sundling, Project Mgmt.
Travis Stetnish, Streets
Chris McConnell, Parks & Trails

Board of Works

Andy Cook
Randy Graham
Kate Snedeker

Clerk Treasurer

Cindy J. Gossard

Stormwater User Fee Credits:

The Westfield Public Works Department is requesting that the Board of Public Works and Safety accept an additional credit option (highlighted below) to the Stormwater Utility User Fee Credit Manual, Page 9.

Current:

In the City of Westfield, only non-residential properties (properties categorized as commercial, industrial, tax exempt, residential common areas, and apartment property classes) are eligible to earn a maximum 30% credit towards reducing their stormwater user fee. This credit program is intended to encourage Low Impact Development (LID) and best management practices (BMPs) to reduce water quantity and improve water quality, as well as promote public education on the importance of stormwater. The following practices, or combination of practices, are eligible for the maximum total of 30% credit:

Proposed:

In the City of Westfield, only non-residential properties (properties categorized as commercial, industrial, tax exempt, residential common areas, and apartment property classes) are eligible to earn a maximum 30% credit towards reducing their stormwater user fee. Private Elementary and Secondary education institutions are eligible to earn a maximum 50% credit towards reducing their stormwater user fee. This credit program is intended to encourage Low Impact Development (LID) and best management practices (BMPs) to reduce water quantity and improve water quality, as well as promote public education on the importance of stormwater. The following practices, or combination of practices, are eligible for the maximum total credits explained above.

Public Works Department

(317) 804-3100 office
(317) 804-3190 fax

2706 East 171st Street
Westfield, IN 46074
westfield.in.gov



Board of Works

Andy Cook
Randy Graham
Kate Snedeker

Clerk Treasurer

Cindy J. Gossard

Public Works Department

(317) 804-3150 office
(317) 804-3181 fax

2728 East 171st Street
Westfield, IN 46074
westfield.in.gov

Memorandum

To: Westfield Board of Public Works & Safety

Date: November 30, 2016

Re: Public Works Project Report

Memo to Board Members

Dear Board Members, I would like to take this opportunity to update you regarding the current status of our Public Works Departments.

Westfield Public Works Executive Summary Progress Report

Street Maintenance

Shoulder installation for newly paved roads has been completed. Additionally, the monthly focus has centered around concrete work and winter preparation. The sidewalk trip hazard list has been finished; this consists of a combination of sidewalk replacement, cutting, and leveling. This month we also installed the lighting foundation for the Mill Street Road project. Performing this task internally resulted in a cost savings of approximately \$90,000.

Park Maintenance

Park restrooms and irrigation systems have been winterized. We conducted a replacement playground selection process for Quaker Park. We are actively finalizing the design which will be constructed in spring of 2017.

Notable changes since 10/26/16

1. 2016 Trail Connections

All sections are complete with exception of the Monon/Midland Loop, which is usable but on hold for a utility relocation.

2. Mill Street Extension

The Mill Street project is on-going and the north section and additional parking are open to traffic.

3. Westfield Boulevard Extension (West Access Rd.)

This is a new roadway project running from Westfield Blvd., under US 31 and terminates at a new roundabout on 151st. The bid was awarded to Millennium Contractors. Mass earthwork has begun and will continue throughout the winter.

5. Ditch Road Extension

This is the construction project of a new roadway that extends Ditch Rd. from SR32 north and culminates with a roundabout connection at the 18100 block of Casey Rd. Construction has begun and will continue through November of 2017.

Other Notable Projects

1. Towne Road from 156th Street to 166th Street

This project is for sight distance improvements, roadway widening, and three culvert replacements on Towne Road from 156th to 166th Streets. This project is INDOT funded (all phases are 70/30 split). Currently waiting for design contract to be approved by INDOT. Plan to have consultant start survey and design work this spring. Let expected July 2017.

2. Westfield Boulevard Connector (South Poplar Extension)

- Des. No. awarded from INDOT
- Currently waiting on additional funding to be awarded by the state.
- Current plan to go from Park St. to 169th

3. 186th and Springmill RAB

- Approved by MPO
- 2017/2018 construction
- \$2-mil reimbursement from MPO (CN, CE)
- City will fund remaining portion

Public Works Department

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(317) 804-3190 fax

2706 East 171st Street
Westfield, IN 46074
westfield.in.gov

4. Red Line Mass Transit

- City committing \$146k match for PE and ENV services
- Multiple stops from 146th, Village Park, Downtown Westfield, Grand Park
- Construction in 2020 at the earliest

Public Works Department

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Public Works

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November 30, 2016

Consent Agenda Items:

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:

- Indianapolis Hebrew Congregation – Cemetery Renovation – Bond #929644349 - \$78,009.25 – Storm Sewer, Trail, Erosion Control
- Lakes at Grassy Branch 2B – Bond #1145302 - \$46,090.00 – Streets/Curbs, Storm Sewer, Sidewalk and Erosion Control

Performance Bond Release

The Westfield Public Works Department is recommending that the Board of Public Works and Safety consider the following Performance Bond Releases by the requested developer:

- 2013 Fall Resurfacing – Grady Brothers, Inc. – Bond #105979789 - \$162,500.00
- 2014 Resurfacing – Grady Brothers, Inc. – Bond #106052060 - \$110,150.00
- 2014 Resurfacing – Rieth-Riley Construction Co. – Group A – Bond #106038558 - \$111,786.81
- 2014 Resurfacing – E & B Paving, Inc. – Bond #929588831 - \$144,748.41
- 2015 Fall Resurfacing Project – Harding Group, Inc. – Bond #B1221810 - \$55,581.84
- Maples at Springmill, Section 1 – Skjodt Thomas & Associates – Bond #5022507 – 1,401,585.00 – Sanitary, Storm, Erosion Control, Monumentation, (Water Mains)
- Harmony Section 2 – Bond #1114585 - \$560,171.61 – Streets/Curbs, Stormsewer, Sidewalk, Trails
- Villages of Oak Manor, 2A – Bond #CMS0289745 - \$35,147.20 - Erosion

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:

- Spring Orchard, Section 4 – Bond #INC45795 - \$18,472.30 – Storm Sewers, Subsurface Drains

- Spring Orchard, Section 4 – Bond #9234368 - \$9,214.50 – Streets (Stone Base, Binder & Surface)
- Spring Orchard, Section 4 – Bond #929644335 - \$2,324.80 – Concrete Curbs & Walks
- Spring Orchard, Section 4 – Bond #SU14896 - \$3,526.80 – Erosion Control
- Villages of Oak Manor 2A – Bond #601111378 - \$11,009 – Storm Sewers
- Villages of Oak Manor 2A – Bond #CMS0293619 - \$3,195.20 – Erosion Control
- Villages of Oak Manor 2A – Bond #BMID068588 - \$1,708.50 – Concrete Curbs
- Harmony Section 2 – Bond #SUR60001172 - \$28,617.60 – Streets/Curbs
- Harmony Section 2 – Bond #SUR60001173 - \$17,511.20 – Storm Sewer
- Harmony Section 2 – Bond #SUR60001174 - \$2,885.30 – Sidewalk
- Harmony Section 2 – Bond #SUR60001175 - \$1,910.59 - Trail
- Springmill Park Section 1 – Bond #B1233521 - \$5,248.40 – Streets (Surface)
- Springmill Park Section 1 & 2 – Bond SU14895 - \$11,633.00 – Erosion Control
- Springmill Park Section 2 – Bond #B1233522 - \$6,653.70 – Streets (Stone Base, Binder, Surface)
- Springmill Park Section 2 - Bond #929638453 - \$7,047.30 – Storm Sewer & Subsurface Drains
- Springmill Park Section 2 – Bond #1231727 - \$2,830.60 – Concrete Curbs & Walks – Rider for date change – maintenance period begins November 30, 2016.

Maintenance Bond Release

The Westfield Public Works Department is recommending that the Board of Public Works and Safety consider the following Maintenance Bonds for [release](#) by the requested developer:

- Maples at Springmill, Section 1 – Bond #5040914 - \$140,158.50 – Sanitary, Storm, Erosion, Water, Monumentation

Bond Reduction/Letter of Credit Extension

The Westfield Public Works Department is recommending that the Board of Public Works and Safety accept the following Bond reduction by the requested developer:

- Woodbury Ridge – LOC #170050 - \$292,785.00 – Extend expiration date to 7/24/18.
- Woodbury Ridge – LOC #170040 - \$31,597.00 – Extend expiration date to 7/24/18.
- Harmony Section 2- Bond #1114585 – Reduction from \$580,900.29 to \$20,728.68 – Covers Erosion