



CITY OF WESTFIELD, IN
Board of Public Works Meeting Agenda_08_22_2018

Wednesday, August 22, 2018 at 01:00 PM

BOARD OR COMMISSION: Board of Public Works and Safety

MEETING DATE: Wednesday, August 22, 2018 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 - July 25, 2018

Documents: [July 25, 2018 Meeting Minutes](#)

Bid Approval

Construction Standards & Specifications Changes

Change Orders

Contracts/Leases

Action Item #2:

Lighting Project Inspection Contract

Documents: [United Consulting Lighting Project Inspection Contract](#)

Action Item #3:

State Road 32 INDOT Funding Agreement

Documents: [Interlocal Cooperative Agreement](#)

Agreements and/or Memorandum of Understanding (MOU)

Consent Agenda

Pro-X Road Impact Fee Payment Agreement

Documents: [Pro-X Road Impact Agreement](#)

August Bond Information

Documents: [August Bond Info](#)

Department Reports

Fire

Documents: [WFD July 2018 Report](#)

Police

Documents: [WPD July 2018 Report](#)

Public Works

PROFESSIONAL SERVICES AGREEMENT

This PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made by and between **CITY OF WESTFIELD**, ("CLIENT") and **UNITED CONSULTING**, an Indiana corporation ("UNITED CONSULTING").

WITNESSETH



WHEREAS, UNITED CONSULTING desires to provide, and CLIENT desires for UNITED CONSULTING to provide, certain professional services to be performed with respect to **T-38410 LIGHTING AT VARIOUS LOCATIONS** ("Project"), subject to the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the promises, the mutual covenants and undertakings herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

Section I – Services by UNITED CONSULTING

The engineering services to be performed by UNITED CONSULTING are described in Appendix "A" attached hereto, and made a part hereof, and are referred to herein as the "Services".

Section II – Information and Services to be furnished by CLIENT

The information and services to be furnished by the CLIENT are as set out in Appendix "B", which is attached to this Agreement, and incorporated herein by reference.

Section III – Commencement of Services and Schedule

UNITED CONSULTING shall commence performance under this Agreement upon execution by the parties and shall provide the Services hereunder in accordance with the Schedule contained in Appendix "C", which is attached to this Agreement, and incorporated herein by reference.

Section IV - Compensation

For all Services rendered by UNITED CONSULTING under this Agreement, CLIENT agrees to pay UNITED CONSULTING on the basis of fees and charges established in Appendix "D", which is attached to this Agreement, and incorporated herein by reference.

Section V – Term and Termination

1. Term

This Agreement shall commence upon execution by the parties and shall continue until completion of the Services and deliverables as set forth in Appendix "C" or unless terminated as set forth below.

2. Termination

CLIENT reserves the right to terminate or suspend this Agreement upon five days advance written notice to UNITED CONSULTING. Upon termination of this Agreement, UNITED CONSULTING shall deliver all Work Product (as defined herein) to CLIENT. The dollar amount for any earned but unpaid Services performed by UNITED CONSULTING shall be based upon an estimate of the portions of the total Services completed by UNITED CONSULTING through the effective date of termination, which estimate shall be as made by CLIENT in the exercise of its honest and reasonable judgment for all Services to be paid for on a lump sum basis and shall be based upon an audit by CLIENT of those Services to be paid for on a cost basis or a cost plus fixed fee basis as described in Section IV hereof.

Section VI - General Provisions

1. Subcontracting

It is recognized that UNITED CONSULTING may engage subcontractors to perform a portion of the work under this Agreement. The engagement of subcontractors by UNITED CONSULTING shall not relieve UNITED CONSULTING of any responsibility for the fulfillment of this Agreement. No subcontractor shall subcontract any portion of its work under this Agreement.

UNITED CONSULTING will include a term requiring compliance with all applicable Code of Ethics and Conflict of Interest Policies of the CLIENT in any agreement with a subcontractor for the fulfillment of work under this Agreement.

2. Ownership of Documents

All reproducible materials prepared by UNITED CONSULTING or its subcontractors in connection with this Agreement, alone or in combination with others, on any and all media, in whole or in part, and all copies thereof, whether created before, during, or after the term of this Agreement (collectively, the "Work Product") will be the property of CLIENT.

UNITED CONSULTING shall be allowed to retain copies of all documents included in the Work Product, unless prohibited for reasons of security and as mutually agreed by both parties.

UNITED CONSULTING agrees that written agreements with any and all subcontractors used by UNITED CONSULTING to fulfill UNITED CONSULTING's obligations hereunder shall contain language substantially similar to that of this Subsection to assign to CLIENT all Work Product by such subcontractors, and to require cooperation with UNITED CONSULTING on the same terms and conditions as set forth herein.

The provisions of this Subsection shall survive the expiration, suspension, abandonment, termination, or completion of this Agreement.

3. Access to Records

Full access to the work during the progress of the Services shall be available to the CLIENT. UNITED CONSULTING and its subcontractors shall maintain all books, documents, papers, accounting records and other evidence pertaining to the cost incurred under this Agreement and shall make such materials available at its respective offices at all reasonable times during the period of this Agreement and for three (3) years from the date of final payment for Services is made by the CLIENT to UNITED CONSULTING.

4. Liability for Damages

UNITED CONSULTING assumes all risk of loss, damage or destruction to the work product, to all of its materials, tools, appliances and property of every description, and for injury to or deaths of its employees or agents arising out of or in connection with the performance of this Agreement, excluding that which occurs due to the acts or failure to act of any third party, and excluding that which is caused by the CLIENT.

5. General Liability Insurance

- a. Amounts and Coverage. UNITED CONSULTING shall procure and maintain at its expense insurance of the kind and in the amounts set forth in Appendix "E" by companies authorized to do such business in the State of Indiana covering all Services and related activities performed by UNITED CONSULTING.
- b. Evidence of Insurance. Before commencing its Services, UNITED CONSULTING shall furnish to CLIENT a certificate, or certificates, showing that it has complied with this Section VI.5.b, which certificate or certificates, shall also designate CLIENT as an additional named insured. The policies shall not be changed or canceled unless thirty (30) days prior written notice has been given to CLIENT.

6. Workmen's Compensation

UNITED CONSULTING shall be responsible for providing all necessary unemployment and Worker's Compensation Insurance for its employees. UNITED CONSULTING shall provide the CLIENT with a certificate of insurance indicating that it has complied with this requirement.

7. Changes in Work

- a. Prior Approval. UNITED CONSULTING shall not commence any additional services or change of scope until authorized by the CLIENT.
- b. Additional Services. Additional services may include, but not be limited to:
 - i. Services associated with significant changes in the scope, extent, or character of the portions of the Project required by, but not limited to, changes in scope, complexity or schedule and revisions required by changes in applicable laws and regulations or due to any other causes beyond UNITED CONSULTING's control.
 - ii. Preparing to serve or serving as a consultant or witness for CLIENT in any litigation or other dispute resolution process related to the Project that does not involve a claim against UNITED CONSULTING or a claim that is based on an alleged act of negligence or breach of contract by UNITED CONSULTING.
 - iii. Subject to other provisions of this Agreement, additional or extended services during the Project made necessary by (1) emergencies or Acts of God endangering the Project site, (2) an occurrence of a hazardous environmental condition, (3)

damages to CLIENT facilities caused by fire, flood or other cause, (4) acceleration or deceleration of the Project Schedule involving services beyond normal working hours, (5) significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages, and (6) default or failure to perform by other consultants.

8. Non-Discrimination and Code of Ethics

UNITED CONSULTING and its subcontractors, if any, shall not discriminate against any employee or applicant for employment, to be employed in the performance of the Services under this Agreement, with respect to hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, color, religion, sex, handicap, national origin or ancestry. Breach of this covenant may be regarded as a material breach of the Agreement.

UNITED CONSULTING shall comply with all applicable Code of Ethics and Conflict of Interest Policies of the CLIENT.

9. Safety

- a. Responsibility. UNITED CONSULTING shall be directly responsible for the safety requirements and programs applicable to its own employees, its subcontractors and other parties with whom it has contracted to perform Services with respect to the Project.
- b. Compliance. UNITED CONSULTING's safety program shall comply with applicable federal, state and local statutes, rules, regulations and ordinances. UNITED CONSULTING shall report to CLIENT, in writing, any injury or accident at the Project site involving its employees, its subcontractors or other parties for which it is responsible, within forty-eight (48) hours or a shorter period of time if required by law.
- c. Notification. UNITED CONSULTING shall not be responsible for the safety requirements or programs applicable to any other person or entity involved with the Project other than UNITED CONSULTING and its subcontractors.

10. Independent Contractor

CLIENT and UNITED CONSULTING are acting in an individual capacity in the performance of this Agreement and will not act as agents, employees, partners, joint venturers 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 purpose whatsoever. Neither party will assume any liability for any injury (including death) to any persons, nor damage to any property, arising out of the acts or omissions of the agents, employees, or subcontractors of the other party. UNITED CONSULTING shall be responsible for providing all necessary unemployment and workers' compensation insurance for its employees.

11. Indemnification

UNITED CONSULTING agrees to indemnify the CLIENT for all claims and liability due to the negligent acts of UNITED CONSULTING or its subcontractors, agents or employees.

12. Notification

All written notices required by this Agreement shall be sent to the parties at the following addresses by Certified Mail, Return Receipt.

CLIENT:

*City of Westfield
Phil Sundling, PE, Director of Public Works
2706 East 171st Street
Westfield, IN 46074*

UNITED CONSULTING:

*United Consulting
Dave Richter, President
8440 Allison Pointe Boulevard, Suite 200
Indianapolis, Indiana 46250*

13. Authority to Bind United Consulting

As used in this Agreement, UNITED CONSULTING refers to United Consulting Engineers, Inc. d/b/a UNITED CONSULTING. Further, the signatory for UNITED CONSULTING represents that he/she has been duly authorized to execute this Agreement on behalf of UNITED CONSULTING and has obtained all necessary or applicable approvals to make this Agreement fully binding upon UNITED CONSULTING when his/her signature is affixed hereto.

14. Successors and Assignees

This Agreement is binding upon and shall inure to the benefit of CLIENT and UNITED CONSULTING and their respective successors and permitted assigns. UNITED CONSULTING shall not assign this Agreement without the written consent of CLIENT.

15. Entire Agreement; Amendments

This Agreement and its Appendices, each of which is incorporated herein by reference and made a part of this Agreement, constitutes the entire Agreement of the parties with regard to the subject matter hereof and supersedes all prior discussions or agreements concerning any subject matter related hereto. This Agreement may only be amended, supplemented or modified by a written document executed in the same manner as this Agreement.

16. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana, without giving effect to principles respecting conflicts of laws. Subject to Section 19, any action pursuant to this Agreement shall be brought and tried in a court of competent jurisdiction in Marion County, Indiana, and each party hereby irrevocably consents to the personal and subject matter jurisdiction of any such court and waives any objection to such jurisdiction and venue.

17. Non-Waiver

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

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

18. Invalid Provisions

If any part of this Agreement is later found to be contrary to, prohibited by or invalid under applicable law, rules or regulations, that provision shall not apply and shall be omitted to the extent so contrary, prohibited or invalid, but the remainder of this Agreement shall not be invalidated and shall be given full force and effect insofar as possible.

19. Dispute Resolution

Any dispute arising out of this Agreement that cannot be resolved through informal discussions between the parties, shall be subject to this Section.

- a. The parties agree that the existence of a dispute notwithstanding, the parties shall continue without delay to carry out all of their respective responsibilities under this Agreement.
- b. Should any dispute arise with respect to this Agreement that cannot be resolved through informal discussions between the parties, a party shall serve written notice to the other party outlining the details of the dispute and demanding mediation. No later than twenty (20) days from the date of the notice demanding mediation, the parties shall confer to discuss the selection of the mediator and agree upon other mediation procedures.
- c. Submission of a dispute under this Agreement to a mediation procedure shall be a condition precedent to filing litigation. No litigation shall be initiated by either party unless the mediation has been completed (unsuccessfully) or a party has failed to participate in a mediation procedure.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.



UNITED CONSULTING

BY: 
Dave Richter, President

BY: 
Chris R. Pope, Vice President

DATE: August 01, 2018

CITY OF WESTFIELD

BY: _____
Andy Cook, Mayor

BY: _____
Kate Snedeker

BY: _____
Randy Graham

DATE: _____

ATTEST: _____
Cindy J. Gossard, Clerk Treasurer

Appendices

- Appendix A** - Services by UNITED CONSULTING
- Appendix B** - Information and Services to be provided by CLIENT
- Appendix C** - Project Schedule
- Appendix D** - Compensation
- Appendix E** - Insurance

Services by UNITED CONSULTING

A. CONSTRUCTION INSPECTION

1. UNITED CONSULTING shall provide one part time Construction Manager I (for Site Manager entries and for concrete and misc. testing), to serve as the CLIENT'S Site Manager and Testing Specialist working principally through the CLIENT'S inspector or such other person in authority as designated by the CLIENT. A summary of the work to be performed by UNITED CONSULTING is outlined below:
 - a. Site Manager entries
 1. Daily Diary and Pay Quantity Entry. CLIENT will have a full-time inspector on-site that will provide UNITED CONSULTING with paper daily reports of work activities and pay items measured and calculated/sketches and UNITED CONSULTING will enter into Site Manager once a week.
 2. Material Record Entry. Enter material certifications and any concrete tests taken by UNITED CONSULTING into Site Manager.
 3. Concrete Testing. UNITED CONSULTING'S Construction Manager I will take required concrete tests to certify material records.
 - b. Project Closeout
 1. Assembly of Final Construction Record suitable to be turned into INDOT.
2. UNITED CONSULTING shall report to the CLIENT on matters concerning contract compliance and administration. UNITED CONSULTING shall coordinate Site Manager work entries related to the construction with the CLIENT.
3. UNITED CONSULTING will provide a Final Construction Record suitable to INDOT along with Material Record Certification to the CLIENT.

Information and Services Provided by CLIENT

The CLIENT shall furnish the UNITED CONSULTING with the following:

1. The CLIENT shall designate an employee as Project Coordinator as a primary point of contact for this project administration.
2. The CLIENT shall provide a Project Inspector responsible for:
 - a. Daily reports
 - b. Documentation of Pay Quantities, including but not limited to; field sketches and location/justification of pay items.
 - c. Be thoroughly familiar with the Contract plans and specifications in order to monitor the work.
 - d. Reporting to the CLIENT any deviations observed by the CLIENT'S inspector.

Schedule

For purposes of contract control any work required to be submitted by the UNITED CONSULTING to the CLIENT for review and approval within the following approximate time periods:

A. CONSTRUCTION INSPECTION

1. UNITED CONSULTING shall provide part time Site Manager specialist for a construction time of **18** weeks.
2. UNITED CONSULTING shall provide a Final Construction Record within 45 days of Final Acceptance of the project by the CLIENT.

Compensation

A. Amount of Payment

1. UNITED CONSULTING shall receive as payment for the work performed under this Agreement the fee not to exceed **\$31,000.00** unless a modification of the Agreement is approved in writing by the CLIENT.
2. All work under this Agreement shall be paid to UNITED CONSULTING on the basis of actual hours of work performed by essential personnel working exclusively on this project at the billing rates as set forth in the Billing Rates by Classification Table on page 2 of this Appendix.

B. Method of Payment

1. UNITED CONSULTING may submit a maximum of one invoice voucher per calendar month for work covered under this Agreement. The invoice voucher shall be submitted to the CLIENT. The invoice voucher shall represent the value, to the CLIENT, of the partially completed work as of the date of the invoice voucher.
2. In the event of a substantial change in the scope, character or complexity of the work on the project, the maximum fee payable shall be adjusted in accordance with item 7, (changes in work) of the General Provisions, set out in this Agreement.

UNITED Consulting

2018/2019 Billing Rates by Classification

	CLASSIFICATION	HOURLY BILLING RATES
1	Department Manager	\$200.00
2	Field Operations Manager	\$145.00
	OT	\$188.50
3	Construction Manager I	\$112.00
	OT	\$127.50
4	Construction Manager II	\$91.00
	OT	\$104.00

NOTES:

- (1) *Billing Rate Includes Overhead and Profit Margin*
- (2) *Mileage shall be reimbursed at \$0.54 per mile*
- Other direct costs such as Permit Fees, Recording*
- (3) *Fees, Legal Fees, Advertising Fees, Hotel Cost, Etc. shall be reimbursed at their actual costs.*
- (4) *These rates shall be increased by 4% on January 1 of each year subsequent to 2019.*
- (5) *Work performed by Subconsultants shall be reimbursed at their actual cost.*

APPENDIX E

Insurance



ACORD™ CERTIFICATE OF LIABILITY INSURANCE		DATE(MM/DD/YYYY) 3/19/2018
PRODUCER PROFESSIONAL DESIGN INS MGMT CORP PO Box 501130 Indianapolis, IN 46250 (317)570-6945	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED United Consulting Engineers, Inc. 1625 N. Post Road Indianapolis, IN 46219-1995	INSURERS AFFORDING COVERAGE INSURER A: Starr Surplus Lines Insurance Company INSURER B: INSURER C: INSURER D: INSURER E:	NAIC #

COVERAGES THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.							
INSR LTR	ADD'L INSR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
		GENERAL LIABILITY ☐ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PROJECT ☐ LOC				EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$	
		AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$	
		GARAGE LIABILITY ☐ ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$	
		EXCESS/UMBRELLA LIABILITY ☐ OCCUR ☐ CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$	
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATUTORY LIMITS OTH: FR E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$	
X		OTHER Professional Liability	SLSLPRO26234917	12/22/2017	12/22/2018	\$3,000,000 limit each claim and \$3,000,000 in the aggregate	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

CERTIFICATE HOLDER City of Westfield 130 Penn Street Westfield, IN 46074	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE
---	--



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/18/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Walker & Associates 7364 E. Washington Street Indianapolis IN 46219	CONTACT NAME: Brenda Russell PHONE (A/C, No, Ext): (317) 353-8000 FAX (A/C, No): (317) 351-7149 E-MAIL ADDRESS: brenda@walkeragency.com
INSURED United Consulting Engineers Inc. 1625 N Post Rd Indianapolis IN 46219-1995	INSURER(S) AFFORDING COVERAGE INSURER A: Sentinel Insurance Company NAIC # 11000 INSURER B: Hartford Accident & Indemnity Ins. 22357 INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES

CERTIFICATE NUMBER: CL17101810945

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☒ LOC OTHER:		84SBWUI8421	11/1/2017	11/1/2018	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
B	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ALL OWNED AUTOS ☐ SCHEDULED AUTOS HIRED AUTOS ☐ NON-OWNED AUTOS		84UEGVV8861	11/1/2017	11/1/2018	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	☒ UMBRELLA LIAB ☒ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$ 10,000		84SBWUI8421	11/1/2017	11/1/2018	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☒ Y / N If yes, describe under DESCRIPTION OF OPERATIONS below ☒ N / A		84WEGCB8685	11/1/2017	11/1/2018	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

CANCELLATION

CITY OF WESTFIELD
130 PENN STREET
WESTFIELD, IN 46074

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Brenda Russell/BKR

Brenda Russell

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ROAD IMPACT FEE INSTALLMENT AGREEMENT

Cross Referenced to Instrument No. 2015042612 and 2018037319

Westfield Athletic Properties, LLC (the "Applicant") makes the following commitments (the "Commitments") to the City of Westfield, Hamilton County, Indiana ("City") regarding the installment payments for the Road Impact Fees properly assessed on the following described real estate (the "Real Estate") located in Hamilton County, Indiana:

Section 1. **Description of Real Estate (the "Real Estate"):**

Legal Description: Lot Two (2) in Grand Park Subdivision, an addition to the City of Westfield, Hamilton County, Indiana, as per plat thereof, recorded _____, 2018, as Instrument _____, in the Office of the Recorder of Hamilton County, Indiana.

Address: 651 East 191st Street, Westfield, Indiana 46074

Parcel No: 08-05-26-00-01-002.000

Section 2. **Improvement Location Permit No.:** 18-C-010-614 (the "ILP").

Builder/Contractor: C.H. Garmong & Sons, Inc.

Section 3. **Statement of Terms:**

- A. As part of the development of the Real Estate, road impact fees are required to be paid to the City by the Applicant. In accordance with City Ordinance 17-43, the City assessed a road impact fee of **\$141,458.00** on July 12, 2018, attached hereto as **Exhibit A** (18-RIFA-06) (the "Assessed Road Impact Fee"), as part of the Applicant's filed ILP for the Real Estate.
- B. Pursuant to I.C. 36-7-4-1324 the City agrees to installment payments of the Assessed Road Impact Fees as set forth herein.
- C. Prior to the issuance of the ILP, the Applicant agrees to tender \$7,100.00 (Seven Thousand and One Hundred Dollars and 00/100).
- D. The Applicant agrees to make installment payments to the City for the remaining Assessed Road Impact Fee on or before the dates set forth below. The remaining amounts shall be due in equal payments beginning August 1, 2019, and every year thereafter, in accordance with the following:

Issuance of ILP:	\$ 7,100.00
August 1, 2019:	\$ 26,871.60
August 1, 2020:	\$ 26,871.60

August 1, 2021:	\$ 26,871.60
August 1, 2022:	\$ 26,871.60
<u>August 1, 2023:</u>	<u>\$ 26,871.60</u>
Total Road Impact Fee:	\$141,458.00

E. The Applicant is aware and agrees that a lien is placed upon the Real Estate pursuant to I.C. 36-7-4-1325 and the City reserves all rights of collection thereunder.

Section 4. **Binding on Successors and Assigns:**

This Agreement is binding upon each subsequent owner of the Real Estate, each other person acquiring an interest in the Real Estate, and each user of the Real Estate, unless modified or terminated by the City.

Section 5. **Effective Date:**

This Agreement is effective upon the issuance of the ILP and shall continue in effect until the Assessed Road Impact Fees are paid in full or unless modified or terminated in writing by the City.

Section 6. **Recording:**

The undersigned hereby authorizes the Westfield Economic and Community Development Department to record this Agreement in the Office of the Recorder of Hamilton County, Indiana, if desired by the City.

Section 7. **Enforcement:**

This Agreement may be enforced by the City of Westfield, and the only proper venue shall be the Hamilton Circuit or Superior Courts in Hamilton County, Indiana.

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

Westfield Athletic Properties, LLC (the "Applicant")

By: Joseph A. Thatcher
Printed Name: Joseph A. Thatcher

Title: its Managing Member

Date: 7/30/18

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]

SIGNATURE OF NOTARY PUBLIC



State of Indiana, County of Hamilton, SS:

Subscribed and Sworn before me this 30 day of July, 2018.

Printed Name of Notary Public COLIN DOANE

My Commission Expires 4-14-2020

**Westfield Redevelopment Authority
(the "Property Owner")**

By: _____

Printed Name: Todd Burtron

Title: _____

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 _____, County of _____, SS:

Subscribed and Sworn before me this ____ day of _____, 2018.

Printed Name of Notary Public _____

My Commission Expires _____

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law: Brian J. Zaiger. Esq.

Prepared by: Brian J. Zaiger, Krieg DeVault, LLP
12800 North Meridian, Street Suite 300, Carmel, Indiana 46032

EXHIBIT A

ASSESSED ROAD IMPACT FEE

ROAD IMPACT FEE ASSESSMENT
 Assessment Request #: 18-RIFA-06
 Estimate Date: 7/12/2018
 Calculations Performed by: K. Todd
 (I.C. 36-7-4-1321 and City Ordinance No. 12-13)



Property Information:	
Property Description:	Pro-X
Parcel:	08-05-26-00-01.002.000
Address:	651 E. 191st Street Westfield, Indiana 46074
Zoning:	GPEC Amendment: Lot 2 and Lot 5 (Ord. 17-44)
Applicant:	EdgeRock Development, LLC
Name:	Birch Dalton
Address:	555 E. Main Street Westfield, Indiana 46074
Contact:	Jesse Pohman jpohman@onpointelands.com

Development Information:

Existing:	Proposed:
Parking Lot	49,318 square feet of batting cages, multi-purpose sports space 8,720 square feet weight room and ancillary space

Road Impact Fee Calculation:

In accordance with I.C. 36-7-4-1321 and the City's adopted impact fee ordinance, road impact fees are calculated based on the number of twenty-four-hour trips taken from the latest version of the *Trip Generation Manual*, a study published by the Institute of Transportation Engineers (the following were developed based on the guidelines set forth in the 9th Edition).

Land Use Code:	Multipurpose Recreational Facility (435)
Independent Variable:	1,000 Sq. Ft. Gross Floor Area
Weighted Trip Average:	1.99 per 1,000 Sq. Ft. GFA (average weekday 24-hour trip rate)
Land Use Code:	Athletic Club (493)
Independent Variable:	1,000 Sq. Ft. Gross Floor Area
Weighted Trip Average:	43.00 per 1,000 Sq. Ft. GFA (average weekday 24-hour trip rate)

Trips:

A "trip" is a single or one-direction vehicle movement exiting or entering the site. For trip generation purposes, the total trips for a 24-hour period are the total of all trips entering plus all trips exiting a site during this period (e.g., one vehicle in and out of site equals two trips).

Pass-by Trips:

A pass-by trip is a trip made as an intermediate stop from an origin to a primary destination, and is generally a trip attracted from traffic already passing the site on an adjacent street. Trip generation estimates may be able to be reduced, subject to the land use, its context and available data from the Trip Generation Manual. If appropriate, the calculation below takes pass-by trips into consideration.

Calculation:

Sq. Ft. GFA	Variable	Trip Average	
Trips: 49,318	/ 1,000	x 1.99	= 98.14 24-hour trips
Pass-by Trips:	Average pass-by trip percentage: (destination use)		0% pass-by trip reduction %
	No structure demolition is proposed		0.00 pass-by trips
Credits:	No structure demolition is proposed		0.00 structure demolition credits
	Total net trips:		98.14 24-hour trips

Calculation:

Sq. Ft. GFA	Variable	Trip Average	
Trips: 8,720	/ 1,000	x 43.00	= 374.96 24-hour trips
Pass-by Trips:	Average pass-by trip percentage: (destination use)		0% pass-by trip reduction %
	No structure demolition is proposed		0.00 pass-by trips
Credits:	No structure demolition is proposed		0.00 structure demolition credits
	Total net trips:		374.96 24-hour trips

Road Impact Fee: \$ 299 per trip (effective 01/01/2018 through 12/31/2018)

Road Impact Fee Assessment:						Road Impact Fee Due:
24-hour trips	fee per trip	road impact fee	pass-by trip discount	redevelopment credits		
473.10	x \$ 299	= \$ 141,458	- 0.00	- 0.00	=	\$ 141,458

X	This is being provided as an assessment of the road impact fees due for the development. Road impact fees are due by the applicant upon the City's issuance of an improvement location permit for this development. Please provide a copy of this assessment with any Improvement Location Permit application made with the City regarding this property.
	This is being provided as an estimate for informational purposes only at the request of the applicant and is not binding upon the applicant or the City. The actual assessment of road impact fees for this development is subject to change.

Westfield Police Department

Monthly Performance Measures Report



Board of Public Works & Safety

July 2018

Table of Contents

	Page
1. Field Activity Performance Measures	
a) Events by Nature/Calls for Service	1
b) Calls by Day of Week	2
c) Calls by Hour of Day	3
d) Total Calls by Month Chart	4
e) UCR Offenses	5
f) Arrests & Traffic	6
g) Traffic Stops by Day of Week	7
h) Traffic Stops by Hour of Day	8
i) Traffic Stops by Monty Chart	9
2. Community Events	10
3. Training	11

Westfield Police Department

July 2018

Events by Nature

911 Hang Up	22
Abandoned Vehicle	14
Abandonment	0
Abuse / Neglect	2
Accident - Hit & Run	13
Accident - Other	0
Accident - Property Damage	75
Accident - Personal Injury	9
Accident - Unknown	3
Accelerator Stuck	1
Active Assailant	0
Alarm - Other	0
Alarm - Vehicle	2
Alarm - Burglar	143
Alarm - Hold Up	17
Animal Bite / Attack	2
Animal Complaint	52
Assist Fire	33
Assist Other Department	18
Assist Public	28
Battery	3
Bomb Device Found	0
Bomb Threat	0
Burglary	7
Carjacking	0
Case Follow Up	100
Child Seat Inspection	1
Civil Dispute	19
Criminal Mischief	22
Damage to Property	0
Death Investigation	1
Directed Patrol	3
Disturbance	24
Driving Complaint	73
Drug Complaint	10
Escort	0
Fight	0
Firearms Shots Fired	4
Found / Lost Property	25
Found Person	1
Fraud Prescription	0
Fraud / Deception	22
Harassment	25
Intoxicated Person	7
Investigation	8

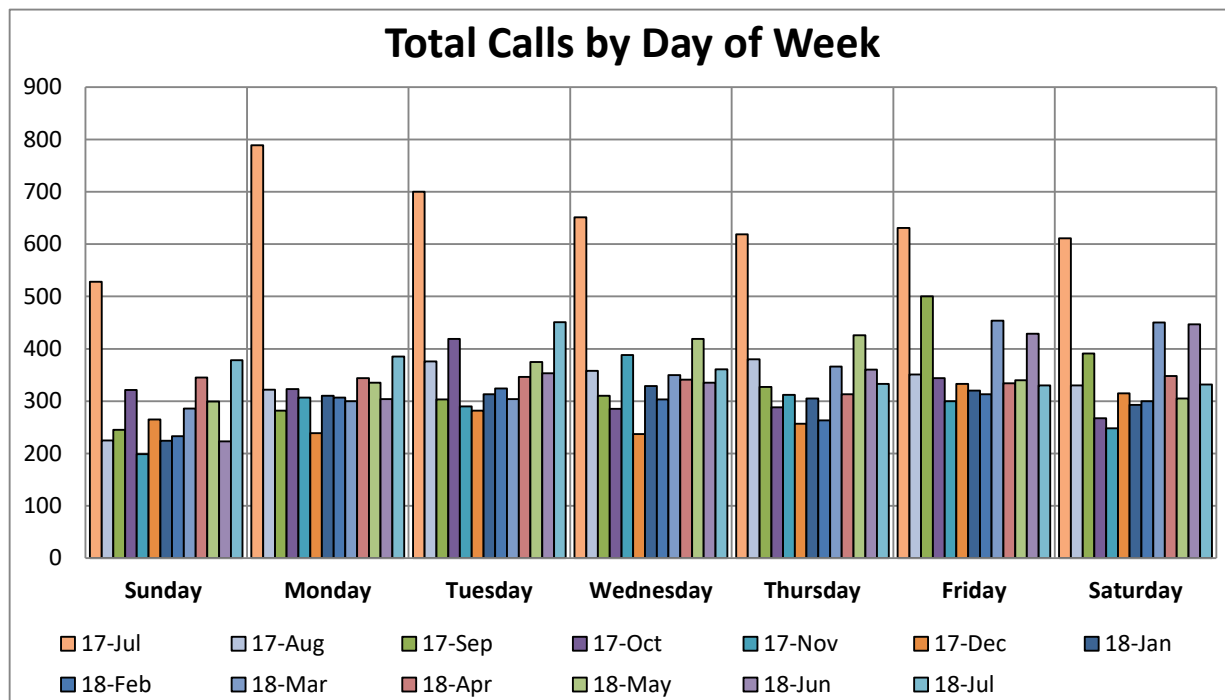
Juvenile Complaint	2
K9 Detail	2
Kidnapping	0
Lock Out	53
Loud Party	6
Mental Emotional - Violent	0
Mental Person	6
Miscellaneous	14
Missing Person	2
Missing Person - PLS	0
New Call	5
Nuisance	28
Ordinance Misc.	21
Parking Complaint	23
Physical Disturbance	9
Reckless Activity	0
Road Rage	3
Robbery	2
Runaway	1
Security Check	7
Sex Offense	6
Shooting	0
Special Detail	0
Stabbing	0
Suicide	0
Suspicious Activity	100
Suspicious Package	1
Test	0
Theft	36
Theft - From a Vehicle	32
Theft - of a Vehicle	7
Threat to Life	6
Threatening Suicide	1
Tow Release	1
Traffic Hazard	118
Transport	0
Trespassing	9
Traffic Stop	1192
Unknown Call for Police	0
VIN Check	32
Wanted	1
Warrant Service	12
Weapons Complaint	1
Welfare Check	42
	2570

Westfield Police Department

July 2018

Total # of Calls by Day of Week

DAY	17-Jul	17-Aug	17-Sep	17-Oct	17-Nov	17-Dec	18-Jan	18-Feb	18-Mar	18-Apr	18-May	18-Jun	18-Jul
Sunday	528	225	245	321	199	265	224	233	286	345	299	223	378
Monday	789	322	282	323	307	239	310	307	300	344	335	304	385
Tuesday	700	376	303	419	290	282	313	324	304	346	375	353	451
Wednesday	651	358	310	285	388	237	329	303	350	341	419	335	361
Thursday	619	380	327	288	312	257	305	263	366	313	426	360	333
Friday	631	351	500	344	300	333	320	313	454	334	340	429	330
Saturday	611	330	391	267	248	315	293	300	450	348	305	447	332
TOTAL	4529	2342	2358	2247	2044	1928	2094	2043	2510	2371	2499	2451	2570



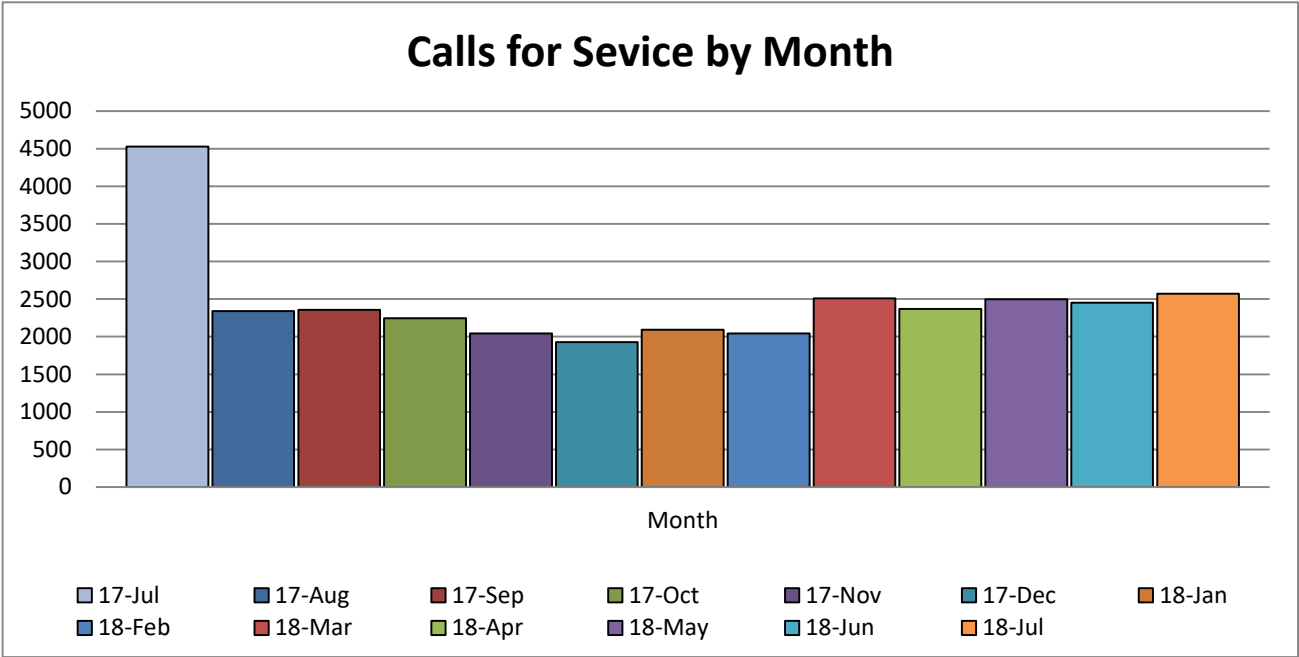
Westfield Police Department

July 2018

Total # of Calls by Hour of Day

Hour	17-Jul	17-Aug	17-Sep	17-Oct	17-Nov	17-Dec	18-Jan	18-Feb	18-Mar	18-Apr	18-May	18-Jun	18-Jul
0	156	101	100	93	74	77	66	73	82	99	90	96	105
1	139	49	69	53	46	44	51	46	62	53	62	78	64
2	143	34	49	40	33	35	37	34	38	56	55	43	50
3	114	25	34	35	17	27	34	23	27	34	30	30	27
4	105	27	25	31	13	18	27	12	11	20	13	29	31
5	221	22	18	16	20	20	24	30	13	20	18	20	32
6	255	54	35	35	38	41	52	50	66	65	64	67	65
7	190	97	110	102	79	77	76	58	99	119	111	128	118
8	223	119	133	149	140	95	72	72	113	106	125	101	123
9	207	93	111	132	116	98	105	106	132	105	142	133	152
10	260	132	169	172	181	123	121	155	157	118	158	158	172
11	200	99	104	123	126	102	93	94	114	118	135	101	129
12	183	132	106	105	134	104	81	74	124	131	99	117	108
13	196	161	145	130	92	102	125	125	159	115	126	140	134
14	228	152	131	140	114	119	135	144	159	133	135	155	142
15	199	122	142	125	125	117	96	122	136	150	139	131	134
16	153	111	127	95	83	84	105	74	130	111	118	122	113
17	152	111	96	81	70	103	106	84	112	124	101	116	111
18	267	123	114	112	126	107	179	143	182	155	168	142	142
19	211	112	121	108	90	122	160	156	186	146	175	120	132
20	115	87	85	79	62	83	71	79	93	89	92	80	79
21	148	105	82	75	62	54	82	69	82	66	93	106	110
22	248	145	123	109	102	87	111	105	122	118	127	132	141
23	216	129	129	107	101	89	85	115	111	120	123	106	156
TOTAL	4529	2342	2358	2247	2044	1928	2094	2043	2510	2371	2499	2451	2570

Westfield Police Department
July 2018



Westfield Police Department
July 2018

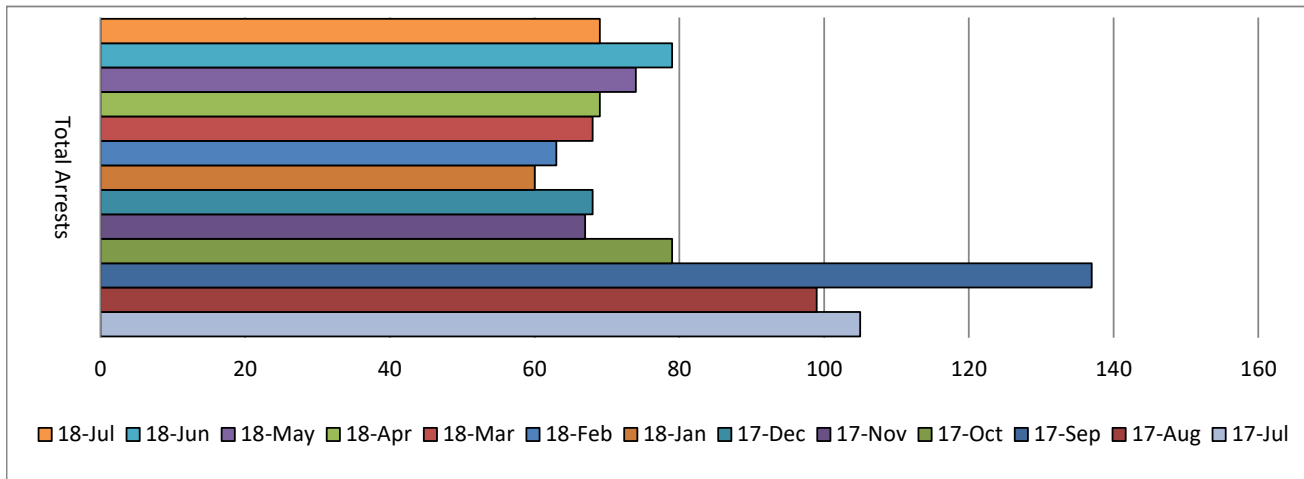
UCR OFFENSES

OFFENSE	17-Jul	17-Aug	17-Sep	17-Oct	17-Nov	17-Dec	18-Jan	18-Feb	18-Mar	18-Apr	18-May	18-Jun	18-Jul
Arson	0	0	0	0	0	0	0	1	0	0	0	0	0
Homicide	0	0	0	0	0	0	0	0	0	0	0	0	0
Rape	0	0	1	-1	0	0	0	0	1	0	0	1	0
Robbery	0	0	2	1	-1	1	0	1	0	0	0	0	1
Battery - Aggravated	0	0	0	0	1	1	0	1	2	0	0	0	0
Battery - Simple	12	11	15	12	19	14	11	21	11	16	24	11	10
Burglary	0	1	3	0	2	5	1	4	4	4	0	1	1
Theft	37	41	24	17	29	30	26	31	28	24	32	29	51
Motor Vehicle Theft	1	3	0	1	2	0	1	1	0	0	0	2	2
TOTAL	50	56	45	30	52	51	39	60	46	44	56	44	65

Westfield Police Department

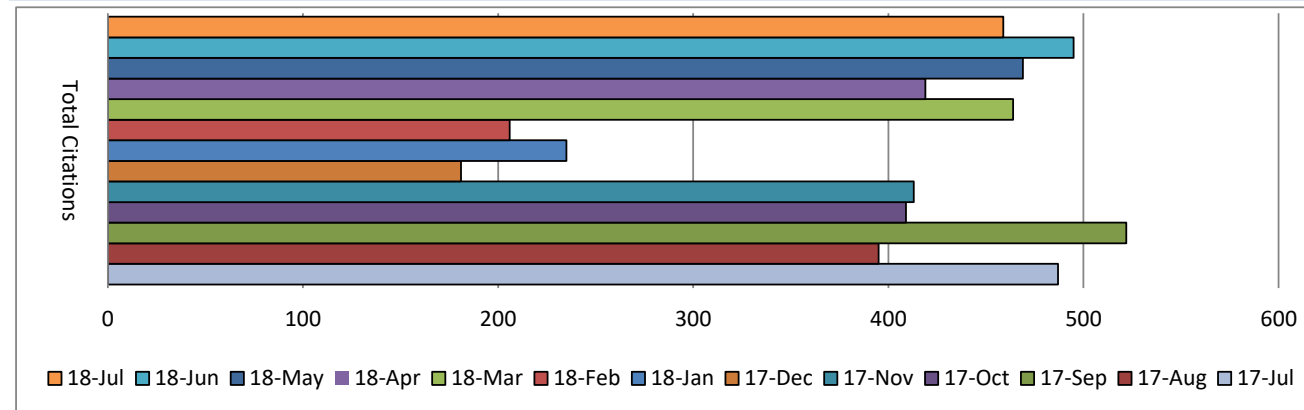
July 2018

Arrest Reports Taken	17-Jul	17-Aug	17-Sep	17-Oct	17-Nov	17-Dec	18-Jan	18-Feb	18-Mar	18-Apr	18-May	18-Jun	18-Jul
Alcohol/ Drug Related	26	23	26	16	13	13	15	17	8	19	16	26	24
Felony Charges	11	13	16	7	20	18	5	14	3	10	5	21	8
Misdemeanor Charges	114	86	131	82	58	77	69	69	80	92	78	114	113
Total Arrests	105	99	137	79	67	68	60	63	68	69	74	79	69



Traffic	17-Jul	17-Aug	17-Sep	17-Oct	17-Nov	17-Dec	18-Jan	18-Feb	18-Mar	18-Apr	18-May	18-Jun	18-Jul
Total Citations	487	395	522	409	413	181	235	206	464	419	469	495	459
Total Written Warning	1135	1125	1113	1084	989	782	1036	1107	1307	1141	1105	1100	1158
Total Traffic Accidents	51	61	58	49	49	77	54	44	55	60	80	47	71
Property Damage	44	48	51	44	45	68	48	40	46	53	73	40	67
Personal Injury	7	9	7	5	4	9	6	4	9	6	7	7	4
Fatality	0	0	0	0	0	0	0	0	0	1	0	0	0
Hit and Run*	5	4	5	6	2	3	7	3	1	6	2	6	6

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

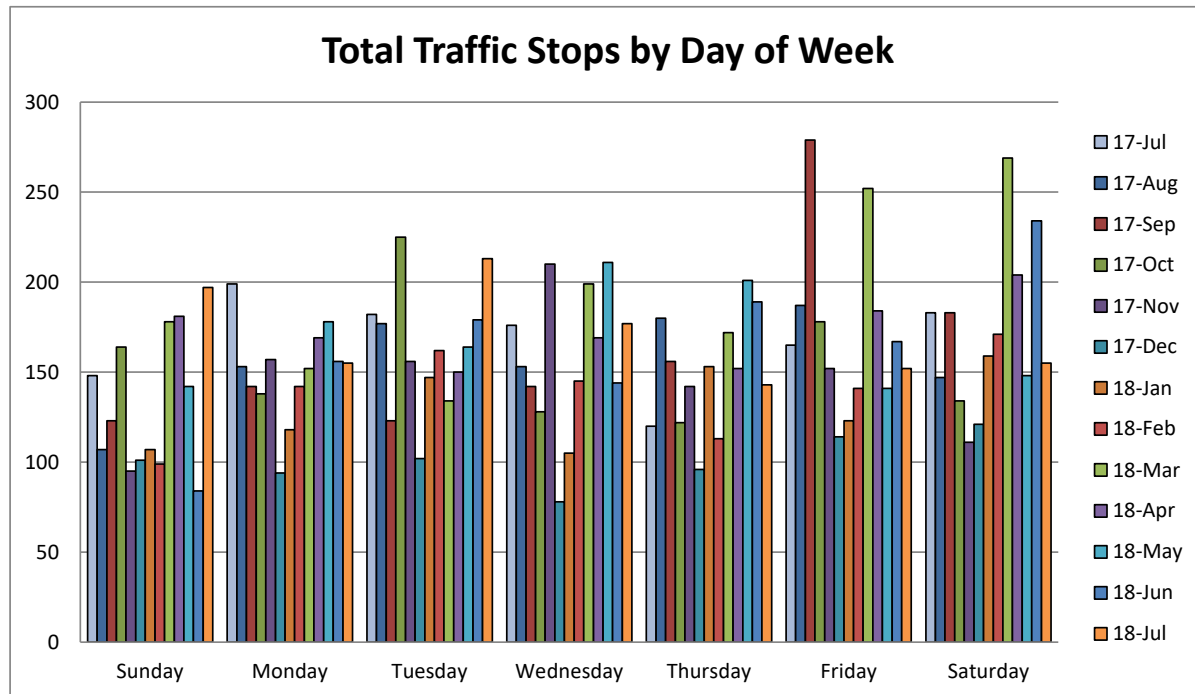


Westfield Police Department

July 2018

Traffic Stops by Day of Week

Day:	17-Jul	17-Aug	17-Sep	17-Oct	17-Nov	17-Dec	18-Jan	18-Feb	18-Mar	18-Apr	18-May	18-Jun	18-Jul
Sunday	148	107	123	164	95	101	107	99	178	181	142	84	197
Monday	199	153	142	138	157	94	118	142	152	169	178	156	155
Tuesday	182	177	123	225	156	102	147	162	134	150	164	179	213
Wednesday	176	153	142	128	210	78	105	145	199	169	211	144	177
Thursday	120	180	156	122	142	96	153	113	172	152	201	189	143
Friday	165	187	279	178	152	114	123	141	252	184	141	167	152
Saturday	183	147	183	134	111	121	159	171	269	204	148	234	155
TOTAL	1173	1104	1148	1089	1023	706	912	973	1356	1209	1185	1153	1192



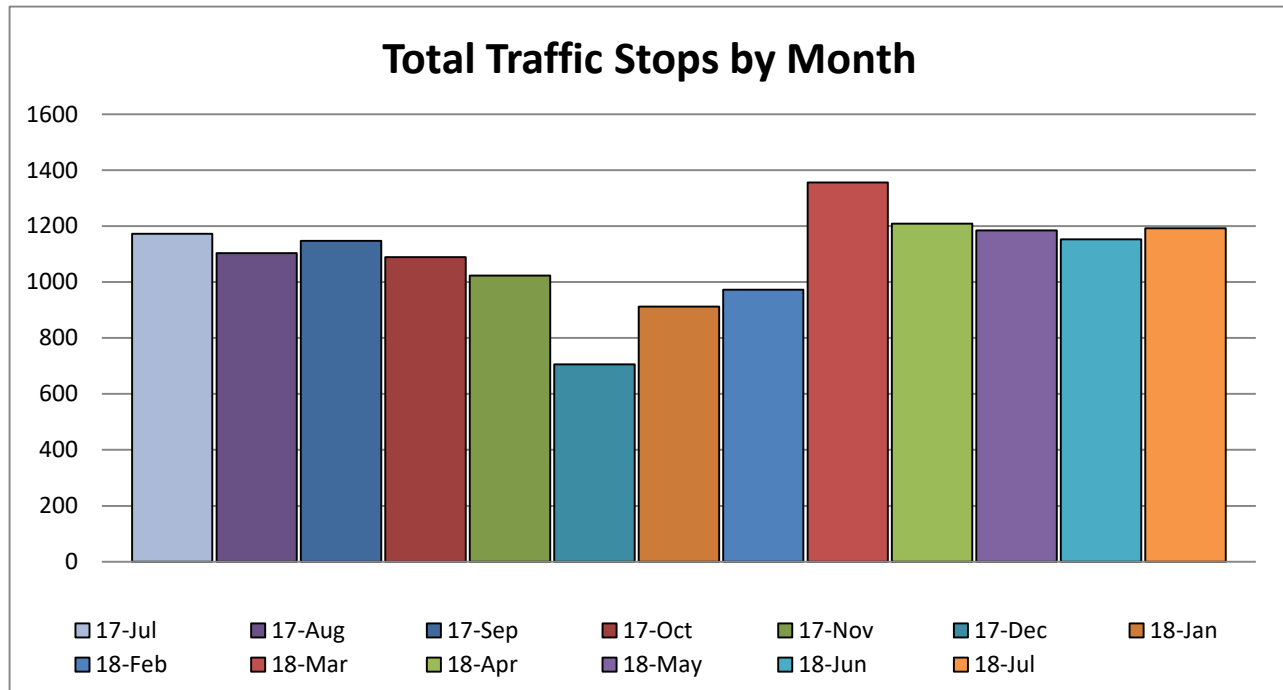
Westfield Police Department

July 2018

Traffic Stops by Hour of the Day

Hour:	17-Jul	17-Aug	17-Sep	17-Oct	17-Nov	17-Dec	18-Jan	18-Feb	18-Mar	18-Apr	18-May	18-Jun	18-Jul
0	50	67	71	60	50	47	40	44	59	69	59	63	62
1	32	31	47	30	28	20	24	31	44	36	36	41	35
2	24	15	30	21	21	19	18	23	31	44	35	28	27
3	11	11	16	21	7	11	11	13	12	25	14	15	10
4	6	6	8	13	7	6	9	7	4	7	4	8	12
5	1	6	3	2	5	3	9	13	7	7	7	10	18
6	39	28	17	19	23	19	32	31	42	53	42	44	46
7	52	63	67	72	64	47	34	22	58	86	77	98	67
8	75	69	79	93	84	55	34	25	62	49	57	51	64
9	76	54	53	66	69	21	46	52	67	47	76	74	87
10	93	65	92	85	100	54	58	62	94	71	80	82	104
11	61	35	45	57	67	28	35	34	57	41	51	28	52
12	45	48	45	37	55	25	19	23	43	43	29	32	31
13	73	86	66	59	34	37	44	53	78	62	49	61	41
14	74	77	68	59	59	52	40	69	94	55	60	78	64
15	51	40	59	56	57	30	33	41	73	60	51	62	47
16	23	51	48	26	24	13	18	24	48	37	35	64	50
17	25	31	17	19	18	8	20	13	20	31	18	38	29
18	82	49	49	38	45	41	115	77	109	88	94	58	54
19	67	43	56	58	32	40	99	97	124	74	94	51	51
20	23	29	26	34	17	22	20	32	39	34	28	14	24
21	24	44	26	28	24	13	41	31	35	22	29	30	40
22	94	83	78	63	59	42	51	73	85	80	79	61	73
23	72	73	82	73	74	53	62	83	71	88	81	62	104
TOTAL	1173	1104	1148	1089	1023	706	912	973	1356	1209	1185	1153	1192

Westfield Police Department
July 2018



Westfield Police Department
July 2018
Community Events

7/5/2018	K9
7/9-12/18	Commercial Vehicle Crash Investigation - Officer Hopkins
7/12/2018	ESU
7/19-20/18	ALICE Instructor Certification - Lt. Vickroy and Officer Kang

Westfield Police Department

July 2018

Training

7/5/2018	K9
7/9-12/18	Commercial Vehicle Crash Investigation - Officer Hopkins
7/12/2018	ESU
7/19-20/18	ALICE Instructor Certification - Lt. Vickroy and Officer Kang

THE WESTFIELD BOARD OF PUBLIC WORKS AND SAFETY July 25, 2018

The Westfield Board of Public Works and Safety met on July 25, 2018 at the Westfield Public Works Conference Room. Present were, Randy Graham, Kate Snedeker, Kim Strang, Records Manager and Rodney Retzer, representing Legal Counsel.

Randy Graham called the meeting to order at 1:01 PM

AGENDA ITEMS:

Action Item #1: Meeting Minutes Consideration for Approval:

Kate Snedeker made the motion to approve the May 23, 2018 meeting minutes as presented. Randy Graham seconded. Vote: Yes-2; No-0. Motion carried.

CONTRACTS AND AGREEMENTS:

Action Item #2: 169th & Spring Mill Preliminary Engineering Contract

Phil Sundling presented, stating this contract is for engineering services to be provided by A & F Engineering to utilize federal monies for round-a-bout construction.

Kate Snedeker made the motion to approve the contract. Randy Graham seconded. Vote: Yes-2; No-0. Motion carried.

Action Item #3: Grand Junction Plaza Platting Contract

Phil Sundling presented stating this contract allows American Structurepoint to perform a boundary survey and secondary plat on development property. (Grand Junction Park & Plaza)

Randy Graham made the motion to approve the contract. Kate Snedeker seconded. Vote: Yes-2; No-0. Motion carried.

Action Item #4: 2018 Striping Project-Goods & Services Contract

Phil Sundling presented stating this is the annual striping project and asked for signing authority for \$93,527.94 for the contract amount.

Kate Snedeker made the motion to approve the signing authority on the striping project contract. Randy Graham seconded. Vote: Yes-2; No-0. Motion carried.

Action Item #5: 2018 Asphalt Rejuvenating Project-Goods & Services Contract

Phil Sundling presented stating this is the annual asphalt rejuvenating project which adds to the life span of the pavement. He asked for signing authority to approve the contract in the amount of \$88,509.75.

Randy Graham made the motion to approve the signing authority on the asphalt rejuvenating contract. Kate Snedeker seconded. Vote: Yes-2; No-0. Motion carried.

Action Item #6: 151st Street Trail Connection Design Contract

Phil Sundling presented stating this is the engineering consulting contract for the 151st Street Trail Connection Project. This would connect the existing trail on the south side of 151st Street between Oak Road and Bridlewood Drive.

Kate Snedeker made the motion to approve the contract. Randy Graham seconded. Vote: Yes-2; No-0. Motion carried.

Action Item #7: 161st & Union Roundabout Preliminary Engineering Contract

Phil Sundling presented stating this contract will provide a design for a new round about at the intersection of 161st Street and Oak Road. The project includes Federal funding for the construction.

Randy Graham made the motion to approve the contract. Kate Snedeker seconded. Vote: Yes-2; No-0. Motion carried.

Action Item #8: 161st & Union Roundabout Additional Environmental Tasks

Michael Pearce presented stating this would allow Cardno to provide a report on the archaeological site identified on the northwest corner of the intersection of 161st and Union Street. Total cost of the work would be \$8,300.

Randy Graham made the motion to approve the change order. Kate Snedeker seconded. Vote: Yes-2; No-0. Motion carried.

Action Item #9: 191st & Tomlinson Roundabout Landscaping Package

Phil Sundling presented stating this is the landscape contract to allow Sundown Gardens to landscape the roundabout at 191st and Tomlinson totaling \$41,974.

Kate Snedeker made the motion to approve the contract. Randy Graham seconded. Vote: Yes-2; No-0. Motion carried.

Action Item #10: Duke Distribution Utility Reimbursement Agreement-Ditch Rd South Extension

Phil Sundling presented stating this agreement states the City will reimburse Duke for the relocation of utility serves needed to improve the intersection of Ditch Rd and State Rd 32.

Kate Snedeker asked that a timeline on this project be made available to the public.

Kate Snedeker made the motion to approve the agreement. Randy Graham seconded.
Vote: Yes-2; No-0. Motion carried.

Action Item #11: SR 32 INDOT Funding Agreement **Item was tabled**

Action Item #12: Millennium-Contract for Goods and Services

Phil Sundling presented stating this contract is for Millennium Contractors to do the sidewalks at GPEC. (\$35,138.75)

Action Item #13 FMH Development Agreement

Phil Sundling presented giving the details of the agreement between the City and FMH Development pertaining to the development of a subdivision at the southeast corner of 191st Street and Chad Hittle Drive.

Kate Snedeker made the motion to approve the agreement. Randy Graham seconded.
Vote: Yes-2; No-0. Motion carried.

AGREEMENTS/MEMORANDUM OF UNDERSTANDING (MOU):

None

CONSENT AGENDA:

Bastian Solutions Road Impact Fee Payment Agreement

WPD-Approval to Hire Two Police Officers

Coventy-Dedication of Passing Blister Easement

Market Center Drive Dedication

Northview Church-Right of Way Dedication

Dedication of Easement for Duke Energy at Gunther Blvd. & Midland

July Bond Information

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

DEPARTMENT REPORTS:

Fire- Chief Reed

Police- Chief Rush

Public Works- Phil Sundling

With no further business, Kate Snedeker made the motion to adjourn. Randy Graham seconded.
The meeting was adjourned at 1:34 PM

Deputy Clerk-Treasurer

Board of Public Works and Safety



**City of Westfield Fire Department
Board of Public Works & Safety Report
July 2018**

Contact: Fire Chief

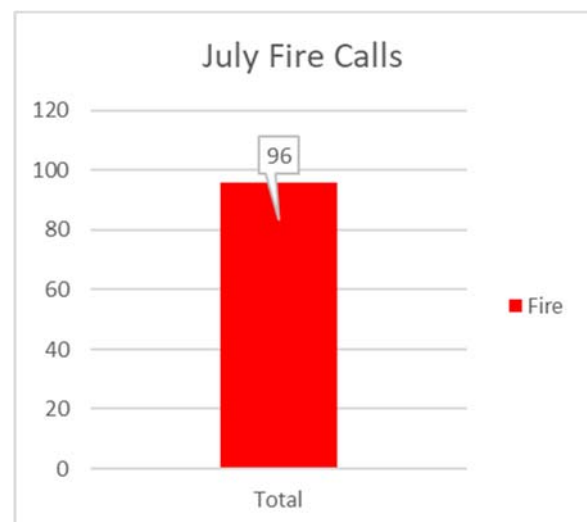
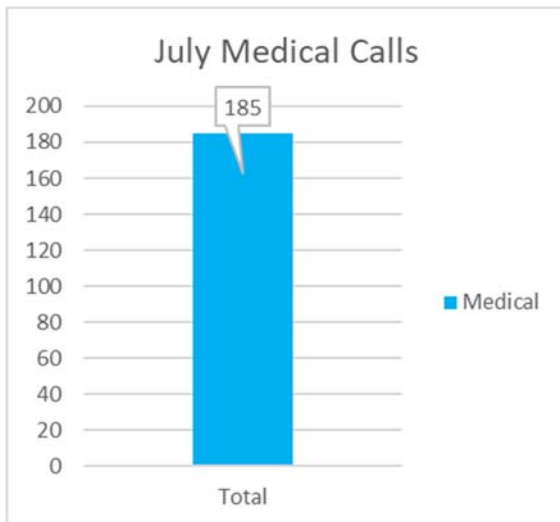
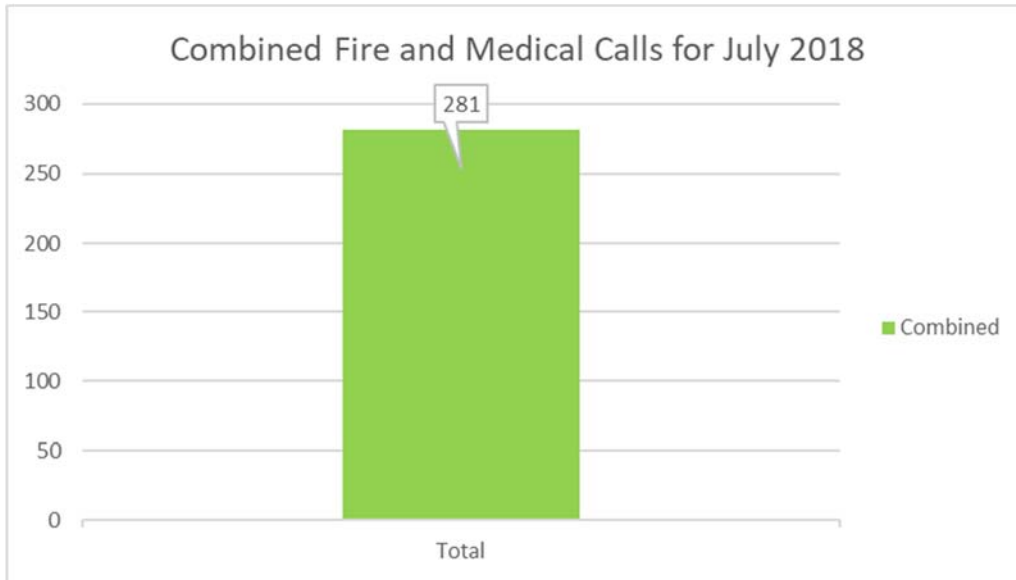
Marcus Reed

Or Nikki Hartman

804-3304

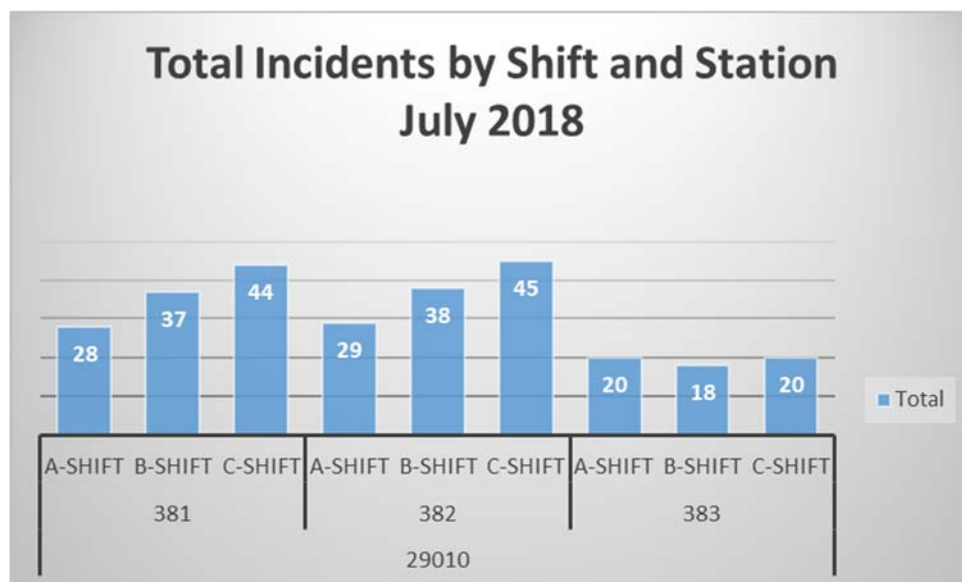
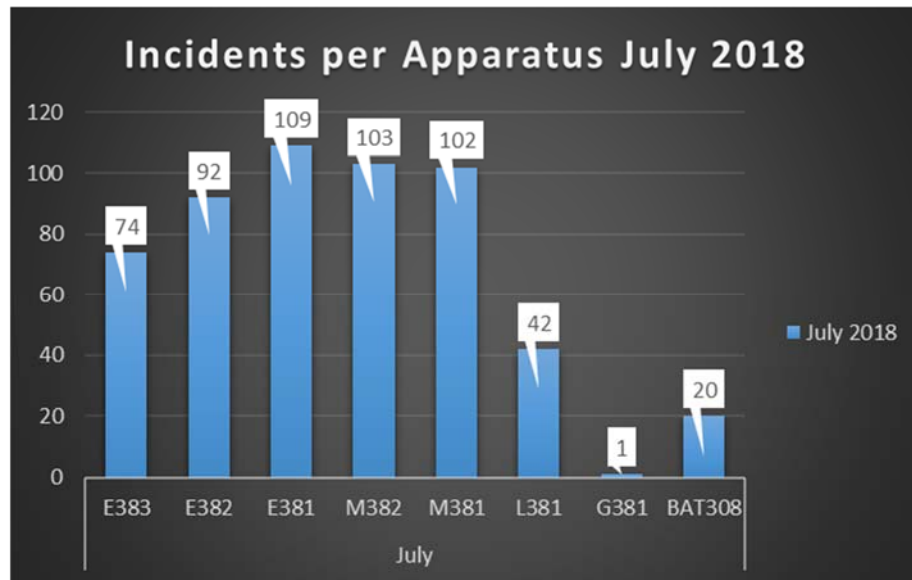


Westfield Fire Department 2018 Incident Statistics



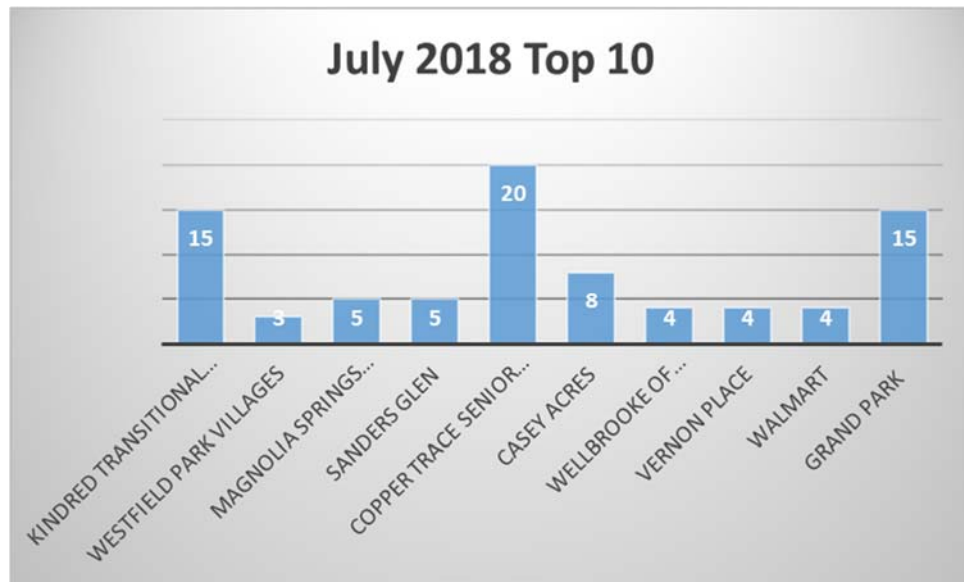


Westfield Fire Department 2018 Incident Statistics

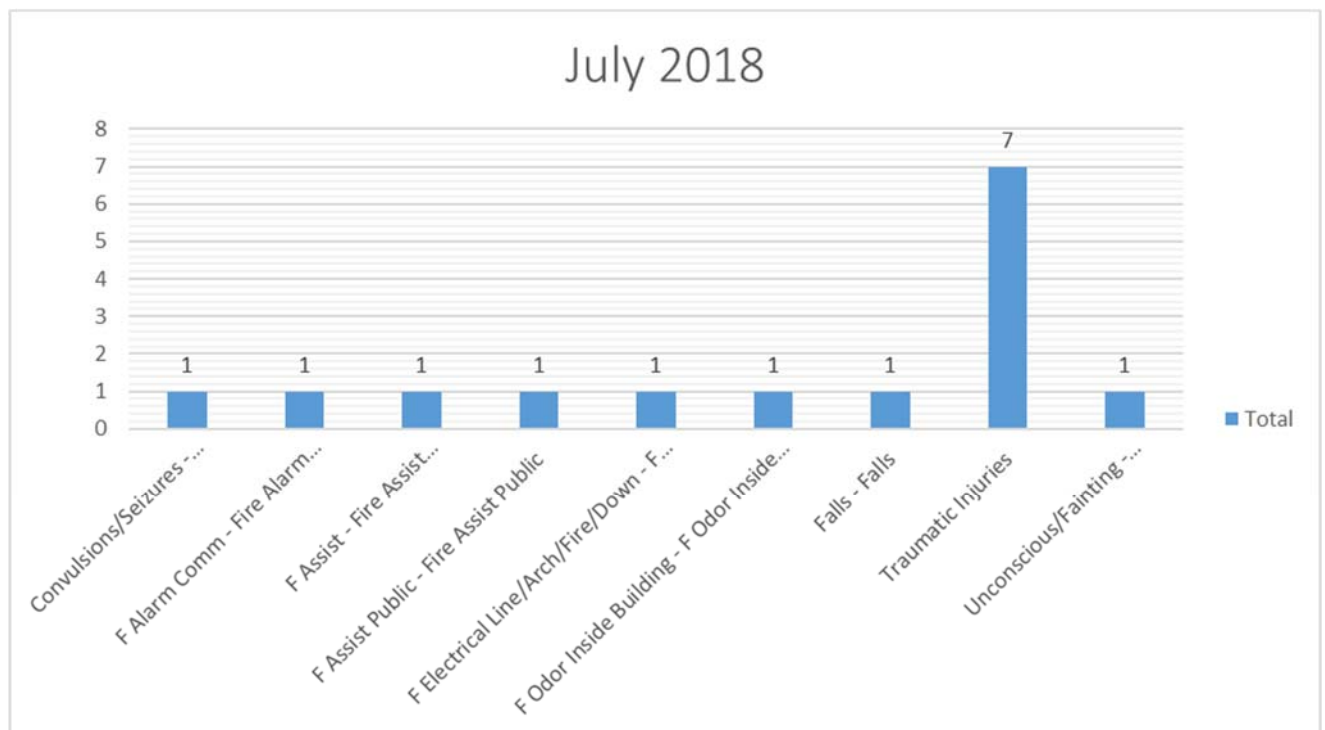




Westfield Fire Department 2018 Incident Statistics



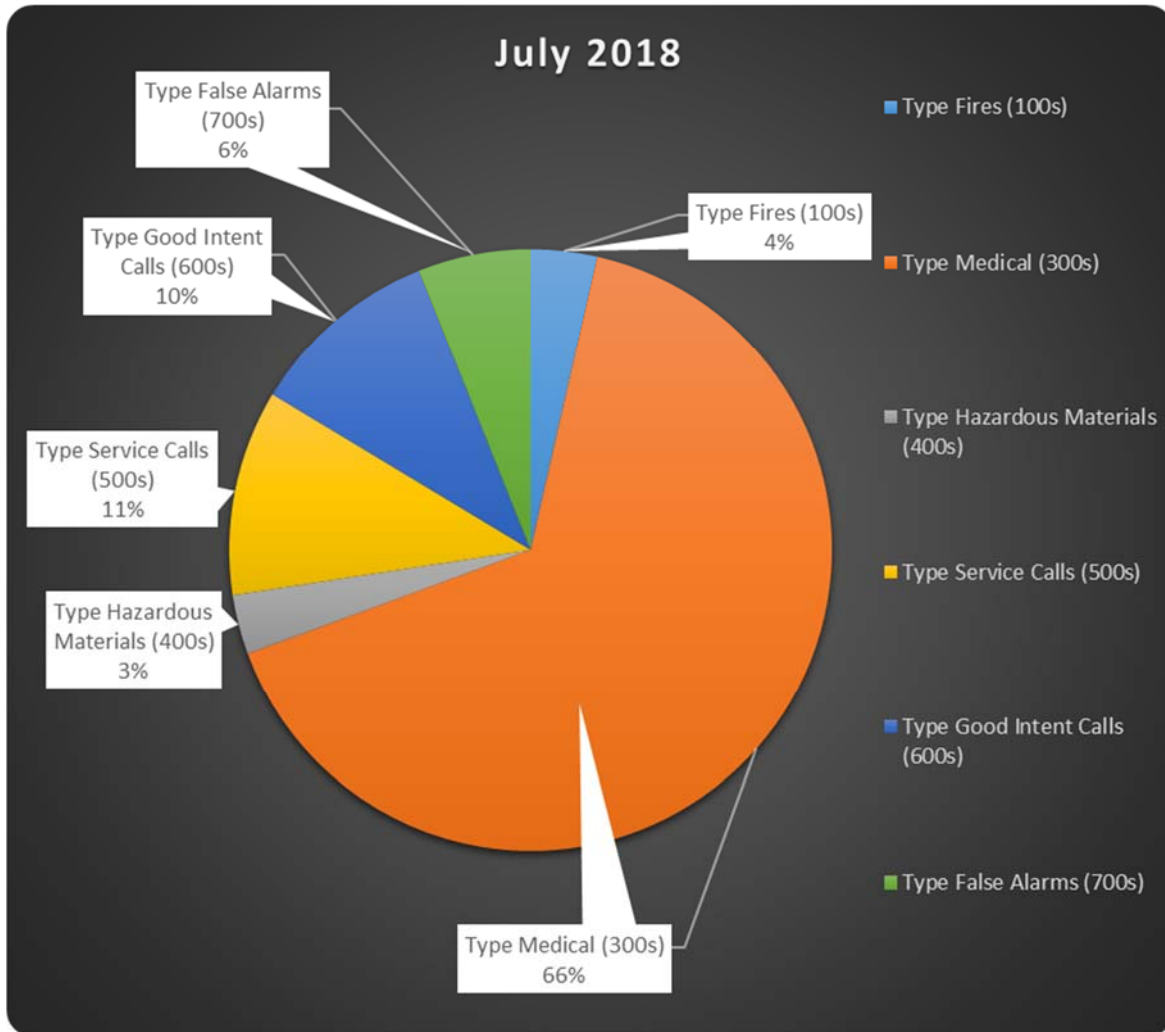
Grand Park



15 calls to GP last month



Westfield Fire Department 2018 Incident Statistics

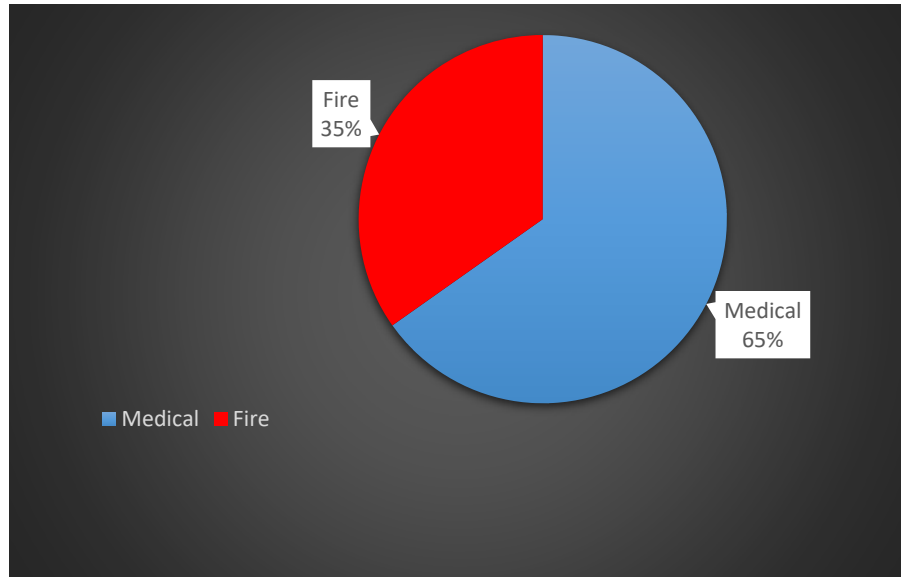


July	281
Fires	10
Medical	185
Hazmat	9
Service Calls	31
Good Intent	29
False Alarms	17



Westfield Fire Department 2018 Incident Statistics

Fire and EMS breakdown for the year



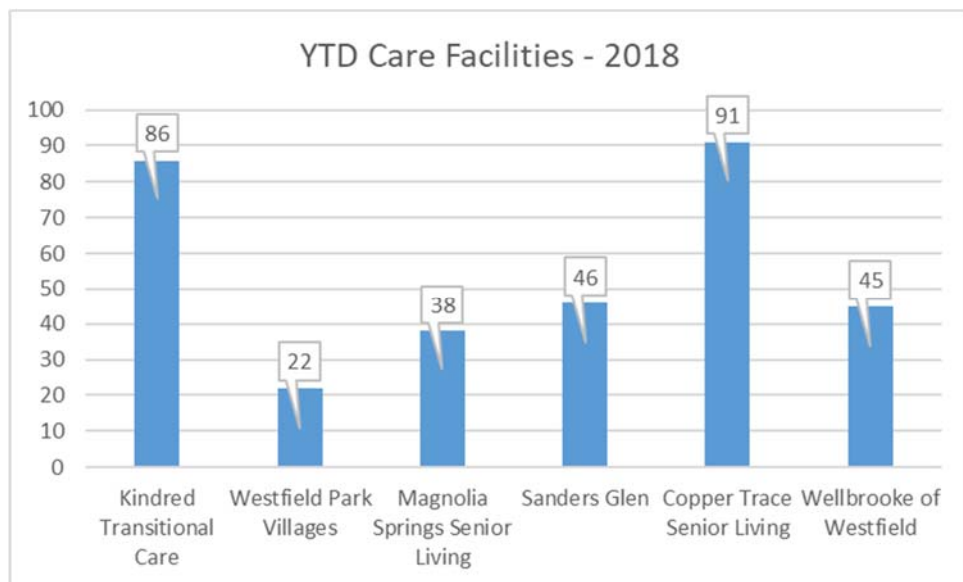
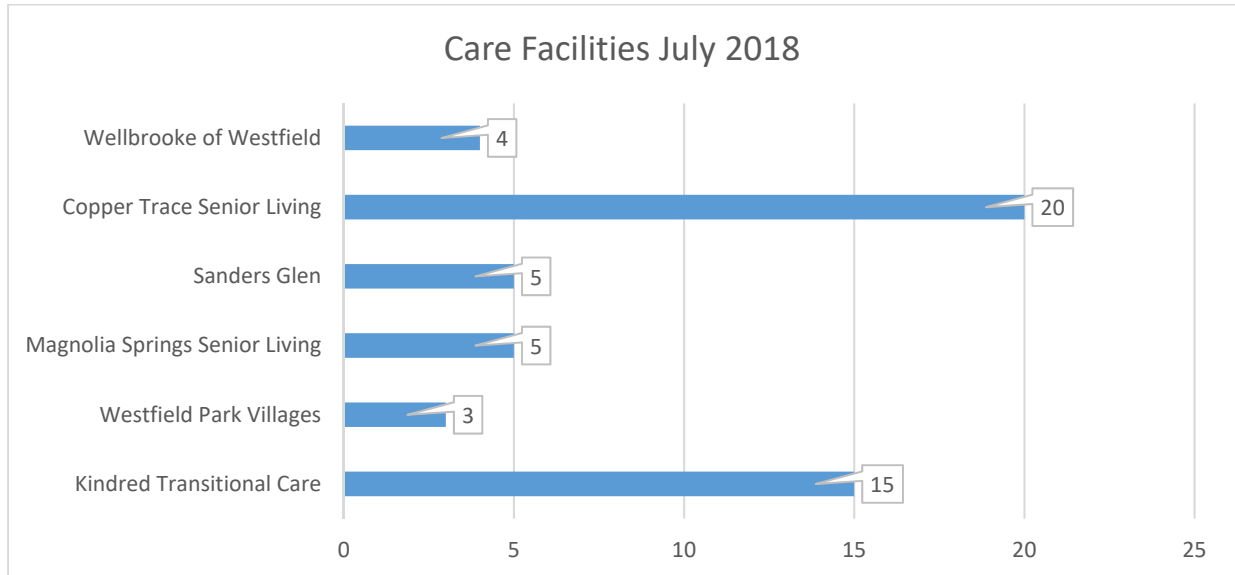
Property Saved





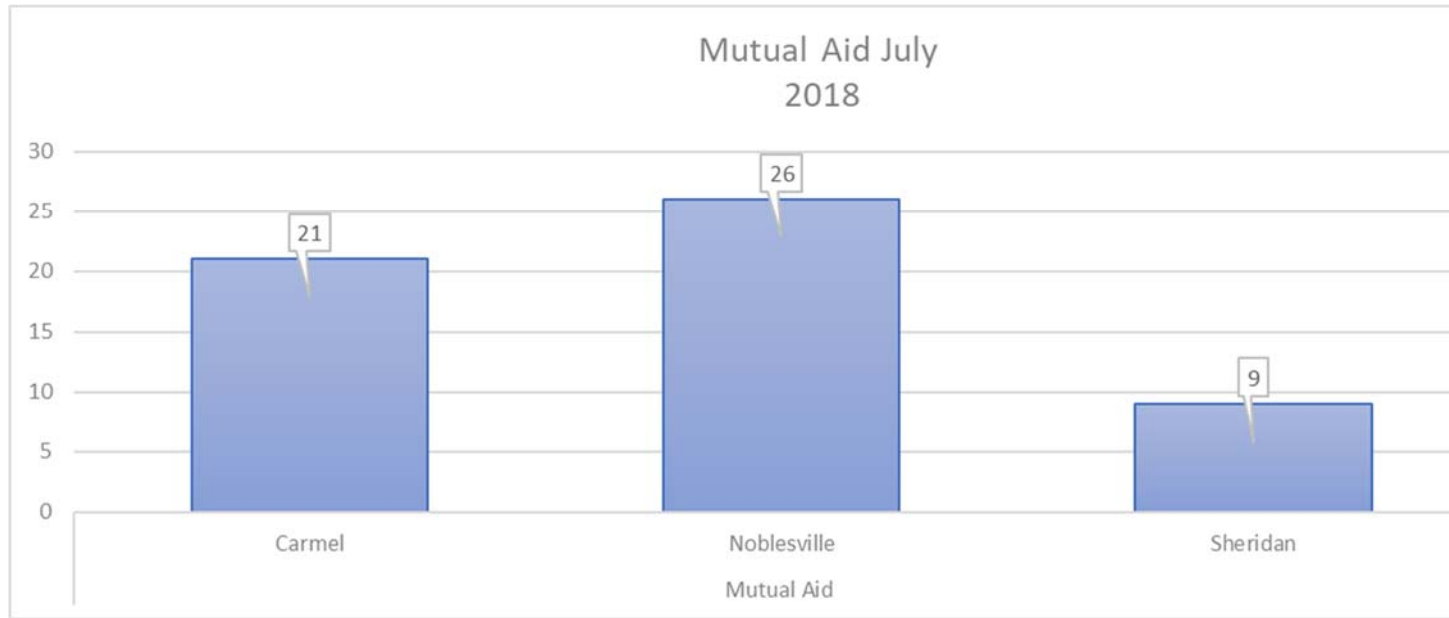
Westfield Fire Department 2018 Incident Statistics

Care Facility





Westfield Fire Department 2018 Incident Statistics



Total 49

INTERLOCAL COOPERATIVE AGREEMENT
Between
THE INDIANA DEPARTMENT OF TRANSPORTATION
And
THE CITY OF WESTFIELD
Concerning
S.R. 32 PROJECT

EDS #A249-_____

This Interlocal Agreement (“Agreement”) is made and entered into this _____ day of _____ 2018 by and between the Indiana Department of Transportation (hereinafter referred to as “INDOT”), and the City of Westfield, Indiana, (hereinafter referred to as the “CITY”), collectively referred to as the “PARTIES”.

RECITALS

WHEREAS, INDOT wishes to partner with the CITY to improve State Road 32 (“SR 32”) through downtown Westfield, for the purpose of improving safety, mobility and to accommodate future economic growth in the region; and

WHEREAS, the PARTIES have concluded that the reconstruction of SR 32, which will include, but will not be limited to, pedestrian facilities, a new roundabout intersection at East Street and SR 32 and aesthetics, including lighting and landscaping (hereinafter the “Project”), would likely benefit both the local highway and state highway systems; and

WHEREAS, as part of ongoing efforts to promote economic development and job creation and to reduce traffic congestion on the state roadways and nearby local roads, the CITY wishes to cooperate with INDOT to construct Project; and

WHEREAS, the PARTIES currently estimate that costs of the Project (including costs of preliminary engineering, design, right of way acquisition, utility relocation, construction and inspection) will be approximately **\$15,000,000.00**; and

WHEREAS, the CITY has agreed to contribute local funds to cover costs of the Project, including the preliminary engineering, design, utility relocation and construction costs, in an amount up to and including, **\$7,500,000.00**; and

WHEREAS, INDOT agrees to acquire the necessary right-of-way for the Project, let a contract for construction, and provide funding in an amount not to exceed **\$7,500,000.00** (“INDOT’s Contribution”) to complete construction of the Project in accordance with all applicable laws and standards and the terms of this Agreement; and

WHEREAS, if INDOT’s costs for land acquisition and right of way services exceed **\$7,500,000.00**, which shall include attorney’s fees and court costs, the CITY agrees to pay for all costs and expenses which exceed INDOT’s Contribution; and

WHEREAS, in order to enhance both the state highway and local highway systems by building the Project, the PARTIES desire to cooperate in funding for the construction of the Project;

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

I. SPECIFIC PROVISIONS

- 1.1. Project Description.** The Project shall include right-of-way acquisition, construction of travel lanes, improved pedestrian facilities and a new roundabout intersection on SR 32. INDOT has prepared a preliminary project budget (attached as **Exhibit A** and herein incorporated by reference) and a concept drawing (attached as **Exhibit B** and herein incorporated by reference).

INDOT will not be responsible for any costs or overages that exceed INDOT's Contribution. The CITY desires to include additional work in this Agreement, including the Jersey Street extension and pedestrian bridge over SR 32, which said costs of the additional work are anticipated to exceed **\$15,000,000.00**. The CITY shall be solely responsible for any and all costs for this additional work and all costs which exceed INDOT's Contribution. Prior to the construction of the pedestrian bridge, installation of landscaping and lighting, the CITY shall obtain a permit and the PARTIES shall execute a Joint Use and Maintenance Agreement to address future maintenance responsibilities of the PARTIES.

1.2. Project Delivery.

- A. In the interest of ensuring that the design and construction of the Project meets the needs of the traveling public on both the state and local highway systems and in order to provide the best value for taxpayers, the Parties have agreed that the CITY will be the lead agency on the design and preliminary engineering processes, as further described in **Exhibit C**, which is attached hereto and incorporated herein by reference, and subject to INDOT approvals where necessary and in accordance with the terms contained herein and in a manner consistent with the typical Local Public Agency Project Development Process. Further, the Parties agree that the Project will be let through INDOT's established Local Federal Aid Process.
- B. The Parties understand and agree that because federal funds will be used for construction of the Project, and because INDOT will maintain the facility after the construction using federal aid funds, SR 32 must remain eligible for federal funding participation. For these reasons, the Parties shall comply with all applicable federal and state laws, regulations and processes throughout all phases of the Project (including without limitation all activities related to project design, development, right-of-way acquisition, utility relocations, construction and inspection). In the event of any noncompliance resulting in requirements that INDOT repay federal funds already expended on the Project, the CITY shall reimburse INDOT the total amount of such federal funds to be repaid in accordance with this Agreement.

Further, the CITY shall not take any actions in the course of any work on the Project that would have the effect of making this portion of SR 32 ineligible for the future use of

federal funds in the corridor. If any portion of SR 32 is removed from the federal aid system as a result of the Project, or if any portion of SR 32 is found to be ineligible for federal aid funding in the future because of the Project, the road will be automatically transferred under the Agreement and in accordance with I.C. 8-23-4-10 and I.C. 8-23-4-12 from the state highway system to the CITY's respective highway systems.

1.3. CITY'S Responsibilities.

1.3.1 Financial Responsibilities.

- A. The CITY shall be solely responsible for full payment in the amount of **\$7,500,000.00** to cover the costs of preliminary engineering, design, utility relocation, environmental and construction of the Project to INDOT in accordance with Section 1.5. The CITY shall be responsible for all costs and overages of the Project which exceed INDOT's Contribution.
- B. The CITY is required to maintain federal eligibility throughout the Project. Eighty-percent (80%) of the CITY's expenses towards this Project shall count toward federal match credits. Prior to the issuance of the Notice to Proceed, the CITY must notify INDOT of the Project costs in order for INDOT to enter the costs into the federal system (FMIS) and for the CITY receive its federal match credits. Any work performed without notifying INDOT will not be eligible for federal match credits. The CITY's eligibility for federal match credits only extends to the Project scope and not to any of the proposed additional work (*i.e.* Jersey Street extension and pedestrian bridge over SR 32) by the CITY.
- C. The CITY shall submit consultant invoices to the INDOT Project Manager for review prior to payment and also quarterly once payment is made for tracking match credits.
- D. The CITY desires to include additional work, including the Jersey Street extension and pedestrian bridge over SR 32, which the costs for said work are not included in the **\$15,000,000.00** allocated for this Project. Unless otherwise agreed upon, the CITY shall be responsible for any and all costs for this additional work and any other additional work not contemplated in the original Project allocation.

1.3.2. Project Responsibilities.

- A. The CITY shall complete all work necessary to prepare the Project for letting, including, but not limited to, all preliminary engineering, design, utility relocation, surveys, permitting, right-of-way engineering (as defined and contemplated in the LPA Guidance Document) and environmental work as outlined in **Exhibit C**. The CITY shall prepare all contract documents required to let a contract, including all necessary plans, drawings and specifications. All such documents will be prepared in accordance with and referencing the INDOT Standard Specifications and the Indiana Design Manual as appropriate.

- B. The CITY shall follow the design submittal process in the INDOT Design Manual. The CITY shall provide its proposed design in accordance with the process and timeline outlined in the Parties Responsibilities in **Exhibit C**. The CITY shall provide all needed plans, tracings, and other preliminary engineering needed for the Project. INDOT shall be provided the opportunity to review and approve all design plans, and the CITY shall promptly ensure that any changes required by INDOT are incorporated into the final plans. The CITY understands and agrees that INDOT shall be the sole and final decision maker on anything that is related to and/or may impact the quality and function of SR 32. All plans and other design work on the Project shall be completed in accordance with all requirements of the most recent edition of INDOT's standard specifications.
- C. The CITY shall coordinate with INDOT in the selection of the consultant for the Project. Throughout the selection process, the CITY must maintain federal eligibility.
- D. The CITY shall be responsible for future maintenance of pedestrian facilities, landscaping and lighting as outlined in **Exhibit C** and for maintenance of the pavement from the time of execution of this Agreement until three (3) years after final acceptance of the Project. A separate Joint Use and Maintenance Agreement will be executed by the PARTIES to address the future maintenance responsibilities of the Parties.

1.4 INDOT'S Responsibilities.

- A. Once the CITY has completed the right of way engineering, INDOT will provide all right of way services and land acquisition necessary for the Project while the CITY is responsible for any right of way needs for additional work that may be included in the construction contract. INDOT will let and award the Project for construction through its usual processes as soon as possible (while still preserving federal funding eligibility).
- B. INDOT shall have the right to review and approve all design plans for the Project that are to be constructed as part of the Project and located on INDOT right-of-way. INDOT shall promptly notify the CITY in the event that changes are required. INDOT shall be the sole and final decision maker on anything that is related to and/or may impact the quality and function of SR 32.
- C. INDOT will manage, administer, and inspect the Project in accordance with applicable laws and INDOT policies, procedures and specifications. In the event it becomes necessary for INDOT to hire a consultant to conduct an inspection, the funding for inspection services will be included as part of INDOT's contribution as outlined in Section 1.5(B). INDOT's total contribution toward the costs of the Project shall not exceed **\$7,500,000.00.**

1.5. **Payment of Project Costs.**

A. *Funding Contribution from the CITY.* The CITY agrees to contribute **\$7,500,000.00** towards the Project, from local (non-federal) funding sources available to the CITY. The CITY shall be responsible for the preliminary engineering costs and shall hire a consultant and make direct payments to the consultant for such costs. The CITY shall make a one-time lump sum payment of the remaining **\$7,500,000.00** thirty (30) days from the date of letting and prior to the issuance of the Notice to Proceed to INDOT. The Notice to Proceed will not be issued until INDOT has received the CITY's contribution. Any delay claims caused by the CITY's failure to make its payment within thirty (30) days of letting will be the sole responsibility of the CITY.

B. *Funding Contribution from INDOT.* INDOT agrees to contribute toward the costs of the Project in an amount not to exceed **(\$7,500,000.00)** in federal-aid highway funds. INDOT's contribution shall include attorney's fees and court costs as part of the right of way services and land acquisition. Nothing in this Agreement shall be deemed to restrict INDOT's ability to manage available funding sources in providing funds for the Project.

C. If for any reason INDOT cancels the Project, terminates this Agreement without constructing the Project, or defaults on any material provision of this Agreement, without a default by the CITY, INDOT agrees to reimburse to the CITY, within 180 days after request from the CITY, all funds paid by the CITY to INDOT under this Agreement, plus interest on such funds at the nationally recognized thirty-year treasury bill rate (as published on the U.S. Department of the Treasury website, available at <http://www.treasury.gov/resource-center/data-chart-center/interest-rates/Pages/TextView.aspx?data=yieldYear&year=2011>, or in the Wall Street Journal Online Market Data Center, available at <http://online.wsj.com/public/page/news-fixed-income-bonds.html>) on the date of cancellation, termination, or notice of default from the CITY to INDOT, as the case may be. Such interest shall accrue beginning on the day the CITY delivered the funds at issue to INDOT and shall continue until the date of reimbursement.

D. If for any reason the CITY terminates this Agreement, or defaults on any material provision of this Agreement, without a default by INDOT, the CITY shall be responsible for paying INDOT for all expenses accrued by INDOT under this Agreement, within 180 days after request from INDOT, and to the extent such expenses exceed the amount of funds contributed by the CITY, the CITY shall also pay INDOT interest on such excess expenses at the nationally recognized thirty-year treasury bill rate (as published on the U.S. Department of the Treasury website, available at <http://www.treasury.gov/resource-center/data-chart-center/interest-rates/Pages/TextView.aspx?data=yieldYear&year=2011>, or in the Wall Street Journal Online Market Data Center, available at <http://online.wsj.com/public/page/news-fixed-income-bonds.html>) on the date of termination or notice of default from INDOT to the CITY. Such interest shall accrue beginning on the day INDOT incurred such expenses and shall continue until the date the CITY reimburses INDOT.

In the event the funds contributed by the CITY exceed the expenses accrued by INDOT through the date of termination, INDOT shall reimburse to the CITY all such excess funds within sixty (60) days after the final accounting of such expenses, which is anticipated to occur within twelve (12) months following the date of termination. No interest shall be paid or owed on any such excess contribution.

E. If, at any point in the project development or letting process, it appears that the total project cost (including construction and all other project costs) may exceed **\$15,000,000.00**, the CITY shall be solely responsible for the additional costs of the Project, which exceed **\$15,000,000.00**. Any modifications and/or additions to the current scope, shall be the sole financial responsibility of the CITY.

1.6. Duration and Renewal of Agreement. The term of this Agreement shall be from the date upon which the Agreement is approved by the Office of the Indiana Attorney General through December 31, 2025, or completion of final audit of the Project by INDOT, whichever occurs first. This Agreement may be renewed or extended under the same terms and conditions subject to the approval of all signing Parties.

1.7. Project Coordination. INDOT and the CITY agree to review and coordinate all plans and schedules pertaining to the Project.

1.8. Public Statements or Disclosures. The PARTIES shall consult with each other and must agree as to the timing, content, and form before issuing any press release or other public statements or disclosures related to the Project or this Agreement. However, this Section does not prohibit either of the PARTIES from making a public statement or disclosure regarding this Agreement or the Project if, in the opinion of a Party's legal counsel, such a disclosure is required by law, including but not limited to Indiana's Access to Public Records Act (IC 5-14-3), legal process or directive of a regulatory authority having jurisdiction over either party.

1.9. Interpretation. The Recitals recorded above are incorporated by reference into this Agreement.

II. GENERAL PROVISIONS

2.1. Access to Records. The CITY shall maintain all books, documents, papers, correspondence, accounting records and other evidence pertaining to the cost incurred under this Agreement, and shall make such materials available at their respective offices at all reasonable times during the period of this Agreement and for ten (10) years from the date of final payment under the terms of this Agreement, for inspection or audit by INDOT, or its authorized designees. Copies shall be furnished at no cost to INDOT if requested.

2.2. Audit. The CITY acknowledges that it may be required to submit to an audit of funds paid through this Agreement. Any such audit shall be conducted in accordance with IC 5-11-1, *et. seq.* and audit guidelines specified by the State. The State consider the CITY to be a "Contractor" under 2 CFR 200.300 for purposes of this Agreement. However, if it is determined that the CITY is a "subrecipient" and if required by applicable provisions of 2 CFR 200 (Uniform Administrative Requirements, Cost Principles and Audit Requirements), CITY shall arrange for a financial and compliance audit, which complies with 2 CFR 200.500 *et. seq.*

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

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

A. No federal appropriated funds have been paid or will be paid, by or on behalf of the CITY, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal agreements, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal agreement, grant, loan, or cooperative agreement.

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

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

2.5. Compliance with Laws.

A. The CITY shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Agreement shall be reviewed by the State and the CITY to determine whether the provisions of this Agreement require formal modification.

B. The CITY and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC §4-2-6, *et seq.*, IC §4-2-7, *et seq.* and the regulations promulgated thereunder. **If the CITY has knowledge, or would have acquired knowledge with reasonable inquiry, that a state officer, employee, or special state appointee, as those terms are defined in IC 4-2-6-1, has a financial interest in the Agreement, the CITY shall ensure compliance with the disclosure requirements in IC 4-2-6-10.5 prior to the execution of this Agreement.** If the CITY is not familiar with these ethical requirements, the CITY should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General's website at <http://www.in.gov/ig/>. If the CITY or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Agreement immediately upon notice to the CITY. In addition, the CITY may be subject to penalties under IC §§4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.

C. [OMITTED – NOT APPLICABLE.]

D. [OMITTED – NOT APPLICABLE.]

E. [OMITTED – NOT APPLICABLE.]

F. The CITY warrants that the CITY and its contractors shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities under this Agreement. Failure to do so may be deemed a material breach of this Agreement and grounds for immediate termination and denial of further work with the State.

G. [OMITTED – NOT APPLICABLE.]

H. As required by IC §5-22-3-7:

(1) The CITY and any principals of the CITY certify that:

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

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

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

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

2.6. **Debarment and Suspension.**

A. The CITY certifies by entering into this Agreement that neither it nor its principals nor any of its contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Agreement by any federal agency or by any department, agency or political subdivision of the State of Indiana. The term “principal” for purposes of this Agreement means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the CITY.

B. The CITY certifies that it has verified the state and federal suspension and debarment status for all contractors receiving funds under this Agreement and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred contractor. The CITY shall immediately notify INDOT if any contractor becomes debarred or suspended, and shall, at INDOT's request, take all steps required by INDOT to terminate its contractual relationship with the contractor for work to be performed under this Agreement.

2.7. Drug-Free Workplace Certification.

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

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

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

B. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the CITY's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;

C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the CITY of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

D. Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;

E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and

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

2.8. Employment Eligibility Verification.

The CITY affirms under the penalties of perjury that they do not knowingly employ an unauthorized alien. The CITY further agrees that:

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

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

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

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

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

2.10. Funding Cancellation Clause. As required by Financial Management Circular 2007-1 and IC 5-22-17-5, when the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of the performance of this Agreement, this Agreement shall be canceled. A determination by the Director of State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

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

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

The CITY agrees to pay all reasonable expenses and attorney's fees incurred by or imposed on the State and INDOT in connection herewith in the event that the CITY shall default under the provisions of this Section.

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

2.14. Non-Discrimination.

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

B. INDOT is a recipient of federal funds, and therefore, where applicable, the CITY and any subcontractors shall comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246 as amended by Executive Order 13672.

The CITY agrees that if the CITY employs fifty (50) or more employees and does at least \$50,000.00 worth of business with the State and is not exempt, the CITY will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The CITY 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.)

C. During the performance of this Agreement, the CITY, for itself, its assignees and successors in interest (hereinafter referred to as the "CITY") agrees to the following assurances under Title VI of the Civil Rights Act of 1964:

1. Compliance with Regulations: The CITY shall comply with the regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, Title 49 CFR Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.

2. Nondiscrimination: The CITY, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, sex, sexual orientation, gender identity, national origin, religion, disability, ancestry, or status as a veteran in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The CITY shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulation, including employment practices when the Agreement covers a program set forth in Appendix B of the Regulations.

3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the CITY 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 CITY of the CITY's obligations under this Agreement, and the Regulations relative to nondiscrimination on the grounds of race, color, sex, sexual orientation, gender identity, national origin, religion, disability, ancestry, income status, limited English proficiency, or status as a veteran.

4. Information and Reports: The CITY 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 CITY is in the exclusive possession of another who fails or refuses furnish this information, the CITY shall so certify to the Indiana Department of Transportation or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of the CITY's noncompliance with the nondiscrimination provisions of this Agreement, the Indiana Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to: (a) withholding payments to the CITY under the Agreement until the CITY complies, and/or (b) cancellation, termination or suspension of the Agreement, in whole or in part.

6. Incorporation of Provisions: The CITY shall include the provisions of paragraphs 1. through 5. in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The CITY 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 CITY becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the CITY 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 CITY may request the United States of America to enter into such litigation to protect the interests of the United States of America.

2.15. Notice to Parties. Whenever any notice, statement or other communication is required under this Agreement, it shall be sent by first class U.S. mail service to the following addresses, unless otherwise specifically advised:

A. For INDOT: Technical Services Director
INDOT Greenfield District
23 South Broadway Street
Greenfield, IN 46140

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

B. For CITY: Public Works Director
2728 East 71st Street
Westfield, IN 46074

2.16. Payment.

All payments (if any) shall be made thirty-five (35) days in arrears in conformance with State fiscal policies and procedures and, as required by IC §4-13-2-14.8, the direct deposit by electronic funds transfer to the financial institution designated by the CITY 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 Agreement except as permitted by IC §4-13-2-20.

2.17. Penalties, Interest and Attorney's Fees. INDOT will in good faith perform its required obligations hereunder, and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law in part, IC 5-17-5, IC 34-54-8, IC 34-13-1.

Notwithstanding the provisions contained in IC §5-17-5, any liability resulting from the State's failure to make prompt payment shall be based solely on the amount of funding originating from the State and shall not be based on funding from federal or other sources.

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

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

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

2.21. General. This Agreement represents the entire understanding between the PARTIES relating to the subject matter, and supersedes any and all prior oral and/or written communications, understandings or agreements relating to the subject matter. Any amendment or modification to this Agreement must be in writing, reference this Section 2.20 and be signed by duly authorized representatives of the PARTIES (and by all necessary approving State agencies or parties). Neither this Agreement nor any portions of it may be assigned, licensed or otherwise transferred by the CITY without the prior written consent of INDOT. This Agreement will be binding upon the PARTIES and their permitted successors or assigns. Failure of either Party to enforce any provision of this Agreement will not constitute or be construed as a waiver of such provision or of the right to enforce such provision. All captions, section headings, paragraph titles and similar items are provided for the purpose of reference and convenience and are not intended to be inclusive, definitive or to affect the interpretation of this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Non-Collusion and Acceptance

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

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

THE REMAINDER OF THE PAGE IS INTENTIONALLY LEFT BLANK

By: J. Andrew Cook, Member

By: Randy Graham, Member

Date:_____

Before me, a Notary Public in and for said County and State personally appeared _____, of Westfield, Indiana, who acknowledged the execution of the foregoing Agreement on this ____ day of _____, 2018.

NOTARY PUBLIC (printed)

My Commission expires: _____

My County of Residence: _____

STATE OF INDIANA
Indiana Department of Transportation
Recommended for approval by:

Todd A. May
Greenfield District Deputy Commissioner
Indiana Department of Transportation

Date: _____

Executed By:

_____(for)
Joseph McGuinness, Commissioner
Indiana Department of Transportation

Date: _____

STATE OF INDIANA)
):SS
COUNTY OF: _____)

Before me, a Notary Public in and for said County and State personally
appeared _____,
of the Indiana Department of Transportation, who acknowledged the execution of the foregoing
Agreement on this _____ day of _____, 2018.

NOTARY PUBLIC (signature)

NOTARY PUBLIC (printed)

My Commission expires: _____

My County of Residence is: _____

APPROVALS

STATE OF INDIANA
State Budget Agency

By: _____(FOR)
Jason D. Dudich, Director

Date: _____

STATE OF INDIANA
Department of Administration

By: _____(FOR)
Lesley A. Crane, Commissioner

Date: _____

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

By: _____(FOR)
Curtis T. Hill, Jr.
Attorney General of Indiana

Date : _____

I affirm, under penalties of perjury, that all Social Security numbers have been redacted from the forgoing, and all attachments thereto, except as allowed by law.

Marjorie A. Millman

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

Marjorie A. Millman, Attorney No. 21748-36



August 22, 2018

Consent Agenda Item:

Performance Bond Acceptance

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

- M/I Homes of IN, Waters Edge West, Section 3, Bond #0218568, \$22,285.18, Erosion Control
- Pulte Group, Enclave at Andover, Section 3, Bond #CMS329399, \$28,652.09, Erosion Control
- Alt Construction, KennMar, Grassy Branch Marketplace, Bond #INC60187, \$818,272.00, Storm Sewer, Erosion Control, Pavement & Concrete Sidewalk
- CalAtlantic Homes of IN, Liberty Ridge, Section 3, Bond #SU1152196, \$70,649.00, Erosion Control
- Zentz Consulting, Shelby Materials Plant – Site, Bond #014208786, \$451,148.00, Storm Sewer, Erosion Control, & ROW Improvements

Performance Bond Release

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

- Beazer Homes Indiana, Villages of Oak Manor, Section 3D/E, Bond #0202326, \$20,738.30, Erosion Control
- Pulte Homes of Indiana, Enclave at Andover, Section 2, Bond #452398S, \$128,895.53, Pavement Improvements, Stone Base, Asphalt
- Pulte Homes of Indiana, Enclave at Andover, Section 2, Bond #SUR0044944, \$22,793.54, Curbs
- Pulte Homes of Indiana, Enclave at Andover, Section 2, Bond #452400S, \$142,382.66, Storm Infrastructure
- Pulte Homes of Indiana, Enclave at Andover, Section 2, Bond #452401S, \$8,928.15, Common Area Sidewalks/ADA Ramps

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:

- Pulte Group, Enclave at Andover, Section 2, Bond #7657791, \$9,050.67, Streets
- The Snider Group, Enclave at Andover, Section 2, Bond #1249717, \$2,386.50, Curbs
- Valenti-Held Contractor/Developer, Enclave at Andover, Section 2, Bond #5053179, \$15,591.83, Storm Sewer & Sub-Surface Drain
- Indiana Reclamation & Excavating, Inc., Enclave at Andover, Section 2, Bond #106563467, \$776.00, Sidewalks

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:

- None

Letters of Credit

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

- J. C. Hart, Harmony Apartments, Letter of Credit #1027062-28935, \$251,732.80, Storm Sewer
- J. C. Hart, Harmony Apartments, Letter of Credit #1027062-28930, \$31,238.90, Erosion Control
- J. C. Hart, Harmony Apartments, Letter of Credit #1027062-28940 \$108,264.20, ROW Improvements
- Woodbury Ridge, Phase 1, Letter of Credit #170050, \$292,785.00, Storm Sewer, Extend Expiration Date to 10/24/18
- Woodbury Ridge, Phase 1, Letter of Credit #170040, \$31,597.00, Erosion Control, Extend Expiration Date to 10/24/18

Cash In Lieu of Bond

The Westfield Public Works Department is recommending that the Board of Public Works and Safety accept the following Cash In Lieu of Bond for the requested developments:

- Northwind Developer, Northwind, Section 1, \$5,701.36, Erosion Control
- Maple Knoll Developers, Spring Mill Villas, \$4,787.00, Erosion Control