



CITY OF WESTFIELD, IN
Board of Public Works_Meeting_Agenda_04_26_2017

Wednesday, April 26, 2017 at 01:00 PM

BOARD OR COMMISSION: Board of Public Works and Safety

MEETING DATE: Wednesday, April 26, 2017 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 - March 22, 2017

Documents: [March 22, 2017 Minutes](#)

Bid Approval

Action Item #2:

Bid Approval: 2017 Resurfacing Project

Documents: [2017 Resurfacing - Baumgartner](#)

Action Item #3:

Quote Approval: 2017 Asphalt Rejuvenating Project

Documents: [2017 Rejuvenating Contract](#)

Construction Standards & Specifications Changes

Resolutions

Action Item #4:

Resolution #17-119: 2017 Underground Facilities - C2

Documents: [2017 Underground Facilities-C2](#)

Contracts/Leases

Action Item #5:

INDOT/LPA Updated Contract for Monon 7

Documents: [INDOT Local Public Agency Contract](#)

Action Item #6:

Monon Trail Phase 6 Construction Engineering (Inspection) Supplemental No. 1

Documents: [Monon Phase 6 Supplemental No. 1](#)

Action Item #7:

Grassy Branch Stream Restoration Phase II - Award Recommendation for Design-Build Contract

Documents: [Certified Scoring Compilation](#) | [Signing Authority for Design-Build Contract](#)

Action Item #8:

Grand Junction Plaza - Demo Contract for Union Street Properties - Signing Authority & Quote from Renascent

Documents: [Signing Authority](#) | [Renascent Quote](#)

Agreements and/or Memorandum of Understanding (MOU)

Action Item #9:

Community Development Block Grant FY17 - Sleepy Hollow Sidewalk Improvements

Documents: [Sleepy Hollow Sidewalk Improvements Signature Page](#)

Consent Agenda

186th & Spring Mill Round-A-Bout - Title Sheet Signature

Documents: [186th Springmill RAB Road Plan](#)

Towne Road from 156th to 166th - Title Sheet Signature

April Bond Information

Documents: [April Bond Information](#)

Department Reports

Fire

Police

Documents: [WPD March Report](#)

Public Works

Documents: [DPW March Report](#)

THE WESTFIELD BOARD OF PUBLIC WORKS AND SAFETY March 22, 2017

The Westfield Board of Public Works and Safety met on March 22, 2017 at the Westfield Public Works Conference Room. Present were, Mayor Cook, Randy Graham, Kate Snedeker, Deputy Clerk Treasurer, Kim Strang, and Brian Zaiger legal counsel.

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

AGENDA ITEMS:

Action Item #1: Meeting Minutes Consideration for Approval:

Mayor Cook made the motion to approve the March 22, 2017 meeting minutes as presented. Kate Snedeker seconded. Vote: Yes-3; No-0. Motion carried.

BID APPROVAL:

None

CONSTRUCTION STANDARDS & SPECIFICATIONS CHANGES:

None

CHANGE ORDERS

None

CONTRACTS/LEASES:

None

AGREEMENTS AND/OR MEMORANDUM OF UNDERSTANDING (MOU):

Action Item #2: Revocable License Agreement-18881 IMMI Way

Phil Sundling presented stating IMMI has a new signage plan that involves a ROA owned by the City. After review, there is no issue in placement of the signs.

Mayor Cook made the motion to approve the Agreement as presented. Kate Snedeker seconded. Vote: Yes-2; No-0. (Randy Graham abstained) Motion carried.

Action Item #3: Construction Engineering Contract Handicap Ramps

Phil Sundling presented stating this is a HSIP project (INDOT) to bring curb ramps in the City up to standard. An inspection is required in the process. The contract allows United Consulting to do inspection with a dollar amount not to exceed \$11,700.

Kate Snedeker made the motion to approve the contract as presented. Mayor Cook seconded. Vote: Yes-3; No-0. Motion carried.

Action Item #4: Establishment of the Technical Review Committee for Grassy Branch Creek Restoration Project

Jeremy Lollar presented stating this is a project with Design-Build procurement that by state statute requires a technical review committee. The Department of Public Works is recommending Jeremy Lollar as Public Agency Representative, Phil Sundling as Professional Engineer, and David Ruben as Registered Architect.

Kate Snedeker made the motion to approve the committee. Randy Graham seconded. Vote: Yes-3; No-0. Motion carried.

Action Item #5: Keeneland Park Road Impact Fee Credit Agreement

Jeremy Lollar presented stating Beazer Homes wishes to install lighting at an internal pedestrian trail. The City would split the cost for construction, not to exceed \$5,000.

Kate Snedeker made the motion to approve the agreement. Mayor Cook seconded. Vote: Yes-3; No-0. Motion carried.

Action Item #6: Westfield Standards & Specifications-2017 Revision

Phil Sundling presented stating this is the annual update to the Construction Standards, Details and Specifications that outline the City's minimum criteria for construction of infrastructure and appurtenances with the jurisdiction of the City.

Kate Snedeker made the motion to approve the revisions. Mayor Cook seconded. Vote: Yes-3; No-0. Motion carried.

Action Item #7: Roudebush/Westfield

Brian Zaiger presented requesting permission for Jeremy Lollar to sign Quitclaim Deeds.

Randy Graham made the motion to give consent for signing authority to Jeremy Lollar. Kate Snedeker seconded. Vote: Yes-3; No-0. Motion carried.

CONSENT AGENDA:

March Bond Information

Mayor Cook made the motion to approve the Consent Agenda. Kate Snedeker seconded.
Vote: Yes-3; No-0. Motion carried.

DEPARTMENT REPORTS:

- **Fire** – Chief Reed
- **Police-** Chief Rush
- **Public Works-** Jeremy Lollar

With no further business, Mayor Cook made the motion to adjourn. Randy Graham seconded.
The meeting was adjourned at 1:30 P.M.

Deputy Clerk-Treasurer

Board of Public Works and Safety



Certified Selection Evaluation

Grassy Branch Stream Restoration Phase II

Project No.: 1240006

Scorer: Jeremy Lollar

Scorer: Jeremy Lollar				Williams Creek			Flatland Resources, LLC			Cardno			ENCAP		
ID	Evaluation Criteria	Weight		Ability, Competence, Experience Level	Score		Ability, Competence, Experience Level	Score		Ability, Competence, Experience Level	Score		Ability, Competence, Experience Level	Score	
1	Knowledge of Project To Date	9		6	54		9	81		6	54		6	54	
2	Team Qualifications	12		9	108		9	108		9	108		9	108	
3	Team Years of Experience	9		9	81		9	81		9	81		9	81	
4	Team Experience in Stream Bank Restoration	15		9	135		9	135		9	135		9	135	
5	Proposed Fee	6		9	54		3	18		6	36		1	6	
6	Resources Available	6		9	54		9	54		9	54		9	54	
7	Completeness & Quality of Proposal	4		9	36		9	36		6	24		9	36	
8	Company Within 60 Miles of Project Site	1		5	5		5	5		5	5		0	0	
			Subtotal =				527						474		
							518						497		

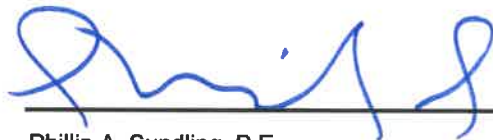
Scorer: Phil Sundling

Scorer: Phil Sundling				Williams Creek		Flatland Resources, LLC		Cardno		ENCAP	
ID	Evaluation Criteria	Weight		Ability, Competence, Experience Level	Score	Ability, Competence, Experience Level	Score	Ability, Competence, Experience Level	Score	Ability, Competence, Experience Level	Score
1	Knowledge of Project To Date	9		6	54	9	81	6	54	6	54
2	Team Qualifications	12		9	108	9	108	9	108	9	108
3	Team Years of Experience	9		9	81	9	81	9	81	9	81
4	Team Experience in Stream Bank Restoration	15		9	135	9	135	9	135	9	135
5	Proposed Fee	6		9	54	3	18	6	36	1	6
6	Resources Available	6		9	54	9	54	9	54	9	54
7	Completeness & Quality of Proposal	4		9	36	9	36	6	24	9	36
8	Company Within 60 Miles of Project Site	1		5	5	5	5	5	5	0	0
			Subtotal =		527			518			474

Scorer: David Rubin

Scorer: David Rubin				Williams Creek		Flatland Resources, LLC		Cardno		ENCAP	
ID	Evaluation Criteria	Weight		Ability, Competence, Experience Level	Score	Ability, Competence, Experience Level	Score	Ability, Competence, Experience Level	Score	Ability, Competence, Experience Level	Score
1	Knowledge of Project To Date	9		6	54	9	81	6	54	3	27
2	Team Qualifications	12		9	108	9	108	9	108	9	108
3	Team Years of Experience	9		6	54	6	54	9	81	9	81
4	Team Experience in Stream Bank Restoration	15		9	135	9	135	9	135	9	135
5	Proposed Fee	6		9	54	3	18	6	36	1	6
6	Resources Available	6		6	36	6	36	6	36	6	36
7	Completeness & Quality of Proposal	4		9	36	3	12	6	24	3	12
8	Company Within 60 Miles of Project Site	1		5	5	5	5	5	5	0	0
			Subtotal =		482	449		479		405	
			Total =		1536	1485		1473		1353	

I hereby certify that to the best of my knowledge and belief, this scoring evaluation is a correct and accurate tabulation of the proposals and associated scoring received by the City of Westfield for the Grassy Branch Stream Restoration Phase II project on April 20, 2017.


Phillip A. Sundling, P.E.

Registered Professional Engineer No. 11300022

State of Indiana



**INDIANA DEPARTMENT OF TRANSPORTATION - LOCAL PUBLIC AGENCY
UPDATED PROJECT COORDINATION CONTRACT**

EDS #: A249-17-L160149

Des. No.: 1173193

CFDA No.: 20.205

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

NOTICE TO PARTIES

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

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

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

With a copy to:

Chief Legal Counsel and Deputy Commissioner
Indiana Department of Transportation
100 North Senate Avenue, Room N758
Indianapolis, Indiana 46204

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

Greenfield District Office
32 South Broadway
Greenfield, Indiana 46140

- C. Notices to the LPA shall be sent to:

City of Westfield
130 Penn Street
Westfield, Indiana 46074

RECITALS

WHEREAS, the PARTIES had previously entered into a Contract, which is attached hereto as **Exhibit A** and incorporated herein by reference; and

WHEREAS, the Contract has expired, but the project referenced in Exhibit A has not yet been completed, and the PARTIES believe it is in the best interests of the citizens of the State of Indiana to complete the project; and

WHEREAS, the PARTIES execute this Contract pursuant to Indiana Code §§ 8-23-2-5, 8-23-2-6, 8-23-4-7, 36-1-4-7, and 36-1-7-3, and Titles 23 and 49 of the United States Code and Titles 23 and 49 of the Code of Federal Regulations, and

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

SECTION I. PREAMBLE. The Preamble, Notice and Recitals recorded above are incorporated by reference into this Contract. 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 Contract.

SECTION II. PURPOSE. The purpose of this Contract is to complete the project, for which it was contracted in Exhibit A. Except for those terms provided for in this Contract, the terms and provisions in Exhibit A are incorporated herein by reference.

SECTION III. PROJECT FUNDS. INDOT will not share in the cost of the Project. INDOT will disburse funds from time to time; however, INDOT will be reimbursed by the Federal Highway Administration (FHWA) or the LPA. PARTIES acknowledge that obligations in the amount of \$ 405,000.00 have been made toward completion of the project. Additional federal funds in the amount of \$ 381,298.00 have been allocated to the Project since the execution of the original LPA contract (which is attached as Exhibit A). The current maximum amount of federal funds allocated to the Project is \$ 1,841,883.00. The remaining balance of the federal fund allocation for the Project is \$ 1,436,883.00, which shall be made in accordance with Section V.P. for the completion of the project.

SECTION IV. TERM. The term of this Contract shall commence on June 30, 2016 and terminate on June 30, 2020, unless otherwise terminated under the provisions of this Contract.

SECTION V. GENERAL PROVISIONS

- A. **Access to Records.** The LPA shall maintain all books, documents, papers, correspondence, accounting records and other evidence pertaining to the cost incurred under this Contract, and shall make such materials available at their respective offices at all reasonable times during the period of this Contract and for five (5) years from the date of final payment under the terms of this Contract, for inspection or audit by INDOT and/or the Federal Highway Administration ("FHWA") or its authorized representative, and copies thereof shall be furnished free of charge, if requested by INDOT, and/or FHWA. The LPA agrees that, upon request by any agency participating in federally-assisted programs with whom the LPA has contracted or seeks to contract, the LPA may release or make available to the agency any working papers from an audit performed by INDOT and/or FHWA of the LPA in connection with this Contract, including any books, documents, papers, accounting records and other documentation which support or form the basis for the audit conclusions and judgments.
- B. **Assignment of Antitrust Claims.** As part of the consideration for the award of this Contract, the LPA assigns to the State all right, title and interest in and to any claims the LPA now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.

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

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

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

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

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

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, 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 Contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, (Disclosure Form to Report Lobbying), in accordance with its instructions.
3. The LPA also agrees by signing this Contract that it shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such sub recipients shall certify and disclose accordingly. Any person who fails to sign or file this

required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

E. Compliance with Laws.

1. The LPA shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations there under, after execution of this Contract shall be reviewed by INDOT and the LPA to determine whether the provisions of this Contract require formal modification.
2. The LPA acknowledges that federal requirements provide for the possible loss of federal funding to one degree or another when the requirements of Public Law 91-646 and other applicable federal and state laws, rules and regulations are not complied with.
3. The LPA acknowledges paragraph 7 of the Federal Highway Program Manual, Volume 7, Chapter 1, Section 3, entitled "Withholding Federal Participation" which is herewith quoted in part as follows: "Where correctable noncompliance with provisions of law or FHWA requirements exist, federal funds may be withheld until compliance is obtained. Where compliance is not correctable, the FHWA may deny participation in parcel or project costs in part or in total."
4. The LPA and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State, as set forth in Indiana Code § 4-2-6, *et seq.*, Indiana Code § 4-2-7, *et seq.*, the regulations promulgated there under, and Executive Order 05-12, dated January 12, 2005. If the LPA is not familiar with these ethical requirements, the LPA should refer any questions to the Indiana State Ethics Commission, or visit the Indiana State Ethics Commission website at <http://www.in.gov/ig/>. If the LPA or its agents violate any applicable ethical standards, INDOT may, in its sole discretion, terminate this Contract immediately upon notice to the LPA. In addition, the LPA may be subject to penalties under Indiana Code §§ 4-2-6, 4-2-7, 35-44.1-1-4 and under any other applicable State or Federal laws.
5. The LPA represents and warrants that the LPA and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations and approvals, as well as comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities under this agreement. Failure to do so may be deemed a material breach of this Contract and grounds for termination and denial of further work with the State.
6. As required by I.C. 5-22-3-7:
 - (1) The LPA and any officials of the LPA certify that:
 - (A) the LPA, except for de minimis and nonsystematic violations, has not violated the terms of:
 - (i) IC §24-4.7 [Telephone Solicitation Of Consumers];
 - (ii) IC §24-5-12 [Telephone Solicitations]; or
 - (iii) IC §24-5-14 [Regulation of Automatic Dialing Machines]; in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and
 - (B) the LPA will not violate the terms of IC §24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

- (2) The LPA and any officials of the LPA certify that an affiliate or official of the LPA and any agent acting on behalf of the LPA or on behalf of an affiliate or official of the LPA except for de minimis and nonsystematic violations,
 - (A) has not violated the terms of IC §24-4.7 in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and
 - (B) will not violate the terms of IC §24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

F. Debarment and Suspension.

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

- G. Disadvantaged Business Enterprise Program.** Notice is hereby given to the LPA or a LPA Contractor that failure to carry out the requirements set forth in 49 CFR Sec. 26.13(b) shall constitute a breach of this Contract and, after notification, may result in termination of this Contract or such remedy as INDOT deems appropriate.

The referenced section requires the following policy and disadvantaged business enterprise ("DBE") assurance to be included in all subsequent contracts between the LPA and any contractors, vendors or suppliers:

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

As part of the LPA's equal opportunity affirmative action program, it is required that the LPA shall take positive affirmative actions and put forth good faith efforts to solicit proposals or bids from and to utilize disadvantaged business enterprise contractors, vendors or suppliers.

H. Disputes.

1. Should any disputes arise with respect to this Contract, the LPA and INDOT agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.
2. The LPA agrees that, the existence of a dispute notwithstanding, it shall continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute.

Should the LPA fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by INDOT or the LPA as a result of such failure to proceed shall be borne by the LPA.

3. If a party to the contract is not satisfied with the progress toward resolving a dispute, the party must notify in writing the other party of this dissatisfaction. Upon written notice, the PARTIES have ten (10) working days, unless the PARTIES mutually agree to extend this period, following the notification to resolve the dispute. If the dispute is not resolved within ten (10) working days, a dissatisfied party will submit the dispute in writing according to the following procedure:
4. The PARTIES agree to resolve such matters through submission of this dispute to the Commissioner of INDOT. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the LPA within ten (10) working days after presentation of such dispute for action. The presentation may include a period of negotiations, clarifications, and mediation sessions and will not terminate until the Commissioner or one of the PARTIES concludes that the presentation period is over. The Commissioner's decision shall be final and conclusive unless either party mails or otherwise furnishes to the Commissioner, within ten (10) working days after receipt of the Commissioner's decision, a written appeal. Within ten (10) working days of receipt by the Commissioner of a written request for appeal, the decision may be reconsidered. If a party is not satisfied with the Commissioner's ultimate decision, the dissatisfied party may submit the dispute to an Indiana court of competent jurisdiction.
5. INDOT may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by INDOT to the LPA of one or more invoices not in dispute in accordance with the terms of this Contract will not be cause for LPA to terminate this Contract, and the LPA may bring suit to collect these amounts without following the disputes procedure contained herein.

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

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

1. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
2. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;

3. Notifying all employees in the statement required by subparagraph (1) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
 4. Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (3)(2) above, or otherwise receiving actual notice of such conviction;
 5. Within thirty (30) days after receiving notice under subdivision (3)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
 6. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (1) through (5) above.
- J. Force Majeure.** In the event either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a Force Majeure Event), the party who has been so affected shall immediately give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.
- K. Funding Cancellation Clause.** When the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of the performance of this Contract, this Contract shall be canceled. A determination by the Director of the State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.
- L. Governing Laws.** This Contract shall be construed in accordance with and governed by the laws of the State of Indiana and suit, if any, must be brought in the State of Indiana.
- M. Indemnification.** The LPA agrees to and shall indemnify, defend, exculpate, and hold harmless the State of Indiana, INDOT and/or its/their officials, agents, representatives, attorneys and employees, individually and/or jointly, from any and all claims, demands, actions, liability and/or liens that may be asserted by the LPA and/or by any other person, firm, corporation, insurer, government or other legal entity, for any claim for damages arising out of any and all loss, damage, injuries, and/or other casualties of whatsoever kind, or by whomsoever caused, to the person or property of anyone on or off the right-of-way, arising out of or resulting from the performance of the contract or from the installation, existence, use, maintenance, condition, repairs, alteration and/or removal of any equipment or material, whether due in whole or in part to the acts and/or omissions and/or negligent acts and/or omissions:
- (a) of the State of Indiana, INDOT, and/or its/their officials, agents, representatives, attorneys and/or employees, individually and/or jointly;
 - (b) of the LPA, and/or its officials, agents, representatives, attorneys and/or employees, individually and/or jointly;

- (c) of any and all persons, firms, corporations, insurers, government or other legal entity engaged in the performance of the contract; and/or
- (d) the joint negligence of any of them, including any claim arising out of the Worker's Compensation law or any other law, ordinance, order, or decree.

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

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

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

O. Non-Discrimination.

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

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

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

It is the policy of INDOT to assure full compliance with Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act and Section 504 of the Vocational Rehabilitation Act and related statutes and regulations in all programs and activities. Title VI and related statutes require that no person in the United States shall on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (INDOT's nondiscrimination enforcement is broader than the language of Title VI and encompasses other State and Federal protections. INDOT's nondiscrimination enforcement shall include the

following additional grounds: sex, sexual orientation, gender identity, ancestry, age, income status, religion, disability, income status, limited English proficiency, or status as a veteran).

3. During the performance of this Contract, the LPA, for itself, its assignees and successors in interest (hereinafter referred to as the "LPA") agrees to the following assurances under Title VI of the Civil Rights Act of 1964:
 - a. Compliance with Regulations: The LPA shall comply with the regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, Title 49 CFR Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.
 - b. Nondiscrimination: The LPA, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, sex, sexual orientation, gender identity, national origin, religion, disability, ancestry, or status as a veteran in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The LPA shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulation, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.
 - c. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the LPA for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the LPA of the LPA's obligations under this Contract, and the Regulations relative to nondiscrimination on the grounds of race, color, sex, sexual orientation, gender identity, national origin, religion, disability, ancestry, income status, limited English proficiency, or status as a veteran.
 - d. Information and Reports: The LPA shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Indiana Department of Transportation and Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a LPA is in the exclusive possession of another who fails or refuses furnish this information, the LPA shall so certify to the Indiana Department of Transportation or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
 - e. Sanctions for Noncompliance: In the event of the LPA's noncompliance with the nondiscrimination provisions of this Contract, the Indiana Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to: (a) withholding payments to the LPA under the Contract until the LPA complies, and/or (b) cancellation, termination or suspension of the Contract, in whole or in part.
 - f. Incorporation of Provisions: The LPA shall include the provisions of paragraphs a through f in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The LPA shall take such action with respect to any subcontract or procurement as the Indiana Department of Transportation or the Federal Highway Administration may direct as a means of

enforcing such provisions including sanctions for non-compliance, provided, however, that in the event the LPA becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the LPA may request the Indiana Department of Transportation to enter into such litigation to protect the interests of the Indiana Department of Transportation, and, in addition, the LPA may request the United States of America to enter into such litigation to protect the interests of the United States of America.

- P. Payment.** All payments made by INDOT, if any, shall be made in arrears in conformance with State fiscal policies and procedures and, as required by I.C. 4-13-2-14.8, by electronic funds transfer to the financial institution designated by the LPA in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Contract except as permitted by I.C. 4-13-2-20.
- Q. Penalties, Interest and Attorney's Fees.** INDOT will in good faith perform its required obligations hereunder, and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law in part, I.C. 5-17-5, I.C. 34-54-8, and I.C. 34-13-1.
- R. Pollution Control Requirements.** If this Contract is for \$100,000 or more, the LPA:
1. Stipulates any facility to be utilized in performance under or to benefit from this Contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended;
 2. Agrees to comply with all of the requirements of the Clean Air Act (including section 114) and the Federal Water Pollution Control Act (including section 308) and all regulations and guidelines issued there under; and
 3. Stipulates, as a condition of federal aid pursuant to this Contract, it shall notify INDOT and the FHWA of the receipt of any advice indicating that a facility to be utilized in performance under or to benefit from this Contract is under consideration to be listed on the EPA List of Violating Facilities.
- S. Severability.** The invalidity of any section, subsection, clause or provision of the Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of the Contract.
- T. Status of Claims.** The LPA shall be responsible for keeping INDOT currently advised as to the status of any claims made for damages against the LPA resulting from services performed under this Contract. The LPA shall send notice of claims related to work under this Contract to:

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

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

Non-Collusion

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

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

LPA: City of Westfield

**STATE OF INDIANA
Department of Transportation**

Print or type name and title

Recommended for approval by:

Signature and date

Steven Duncan, Director
Contract Administration Division

Date: _____

Print or type name and title

Executed by:

Signature and date

Joseph McGuinness, Commissioner (FOR)

Print or type name and title

Date: _____

Department of Administration

Signature and date

Jessica Robertson, Commissioner

Date: _____

LPA DUNS # _____

State Budget Agency

Attest

Auditor or Clerk Treasurer

Jason D. Dudich, Director

Date: _____

Approved as to Form and Legality:

This instrument prepared by:

Ellen Hite
April 20, 2017

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

Date: _____

EXHIBIT A

Version 2-18-2014

INDIANA DEPARTMENT OF TRANSPORTATION - LOCAL PUBLIC AGENCY PROJECT COORDINATION CONTRACT

EDS #: A249-14-321110

Des. No.: 1173193

CFDA No.: 20.205

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

NOTICE TO PARTIES

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

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

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

With a copy to:

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

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

Greenfield District Office
32 South Broadway
Greenfield, Indiana 46140

- C. Notices to the LPA shall be sent to:

City of Westfield
130 Penn Street
Westfield, Indiana 46074

RECITALS

WHEREAS, LPA has applied to INDOT, and INDOT has approved the LPA's application to receive federal funds for the Project described in Attachment A, and

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

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

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

WHEREAS, the PARTIES execute this Contract pursuant to Indiana Code §§ 8-23-2-5, 8-23-2-6, 8-23-4-7, 36-1-4-7, and 36-1-7-3, and Titles 23 and 49 of the United States Code and Titles 23 and 49 of the Code of Federal Regulations, and

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

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

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

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

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

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

SECTION IV PROJECT FUNDS. INDOT will not share in the cost of the Project. INDOT will disburse funds from time to time; however, INDOT will be reimbursed by the Federal Highway Administration (FHWA) or the LPA. Payment will be made for the services performed under this Contract in accordance with Attachment D (Project Funds), which is herein attached to and made an integral part of this Contract.

SECTION V TERM AND SCHEDULE.

- A. If the LPA has the plans, special provisions, and cost estimate (list of pay items, quantities, and unit prices) for the Project ready such that federal funds can be obligated (INDOT obligates the funds about 7 weeks before the date bids are opened for the construction contract) between **July 1, 2015 and June 30, 2016**, INDOT will make the federal funds shown in section I.A. and/or I.B. of Attachment D available for the Project, provided the Project is eligible.
- B. In the event that federal funds for the Project are not obligated during the period listed in section V.A., the federal funds allocated to the Project will lapse.

SECTION VI GENERAL PROVISIONS

- A. **Access to Records.** The LPA shall maintain all books, documents, papers, correspondence, accounting records and other evidence pertaining to the cost incurred under this Contract, and shall make such materials available at their respective offices at all reasonable times during the period of this Contract and for five (5) years from the date of final payment under the terms of this Contract, for inspection or audit by INDOT and/or the Federal Highway Administration ("FHWA") or its authorized representative, and copies thereof shall be furnished free of charge, if requested by INDOT, and/or FHWA. The LPA agrees that, upon request by any agency participating in federally-assisted programs with whom the LPA has contracted or seeks to contract, the LPA may release or make available to the agency any working papers from an audit performed by INDOT and/or FHWA of the LPA in connection with this Contract, including any books, documents, papers, accounting records and other documentation which support or form the basis for the audit conclusions and judgments.
- B. **Assignment of Antitrust Claims.** As part of the consideration for the award of this Contract, the LPA assigns to the State all right, title and interest in and to any claims the LPA now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.
- C. **Audits.** The LPA acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC §5-11-1, *et seq.*, and audit guidelines specified by the State.

The State considers the LPA to be a "sub-recipient" for purposes of this Contract. However, if required by applicable provisions of the Office of Management and Budget Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations), following the expiration of this Contract the LPA shall arrange for a financial and compliance audit of funds provided by the State pursuant to this Contract. Such audit is to be conducted by an independent public or certified public accountant (or as applicable, the Indiana State Board of Accounts), and performed in accordance with Indiana State Board of Accounts publication entitled "Uniform Compliance Guidelines for Examination of Entities Receiving Financial Assistance from Governmental Sources," and applicable provisions of the Office of Management and Budget Circulars A-133 (Audits of States, Local Governments, and Non-Profit Organizations). The LPA is responsible for ensuring that the audit and any management letters are completed and forwarded to the State in accordance with the terms of this Contract. Audits conducted pursuant to this paragraph must be submitted no later than nine (9) months following the close of the LPA's fiscal year. The LPA agrees to provide the Indiana State Board of Accounts and the State an original of all financial and compliance audits. The audit shall be an audit of the actual entity, or distinct portion thereof that is the LPA, and not of a parent, member, or subsidiary corporation of the LPA, except to the extent such an expanded audit may be determined by the Indiana State Board of Accounts or the State to be in the best interests of the State. The audit shall include a statement from the Auditor that the Auditor has reviewed this Contract and that the LPA is not out of compliance with the financial aspects of this Contract.

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, 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 Contract, the making of any Federal grant, the making of any Federal loan, the entering into of any

cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, (Disclosure Form to Report Lobbying), in accordance with its instructions.
3. The LPA also agrees by signing this Contract that it shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such sub recipients shall certify and disclose accordingly. Any person who fails to sign or file this required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

E. Compliance with Laws.

1. The LPA shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations there under, after execution of this Contract shall be reviewed by INDOT and the LPA to determine whether the provisions of this Contract require formal modification.
2. The LPA acknowledges that federal requirements provide for the possible loss of federal funding to one degree or another when the requirements of Public Law 91-646 and other applicable federal and state laws, rules and regulations are not complied with.
3. The LPA acknowledges paragraph 7 of the Federal Highway Program Manual, Volume 7, Chapter 1, Section 3, entitled "Withholding Federal Participation" which is herewith quoted in part as follows: "Where correctable noncompliance with provisions of law or FHWA requirements exist, federal funds may be withheld until compliance is obtained. Where compliance is not correctable, the FHWA may deny participation in parcel or project costs in part or in total."
4. The LPA and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State, as set forth in Indiana Code § 4-2-6, *et seq.*, Indiana Code § 4-2-7, *et seq.*, the regulations promulgated there under, and Executive Order 05-12, dated January 12, 2005. If the LPA is not familiar with these ethical requirements, the LPA should refer any questions to the Indiana State Ethics Commission, or visit the Indiana State Ethics Commission website at <<<http://www.in.gov/ethics/>>>>. If the LPA or its agents violate any applicable ethical standards, INDOT may, in its sole discretion, terminate this Contract immediately upon notice to the LPA. In addition, the LPA may be subject to penalties under Indiana Code §§ 4-2-6, 4-2-7, 35-44-1-3 and under any other applicable State or Federal laws.
5. The LPA represents and warrants that the LPA and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations and approvals, as well as comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities under this agreement. Failure to do so may be deemed a material breach of this Contract and grounds for termination and denial of further work with the State.

6. As required by I.C. 5-22-3-7:

- (1) The LPA and any officials of the LPA certify that:
 - (A) the LPA, except for de minimis and nonsystematic violations, has not violated the terms of:
 - (i) IC §24-4.7 [Telephone Solicitation Of Consumers];
 - (ii) IC §24-5-12 [Telephone Solicitations]; or
 - (iii) IC §24-5-14 [Regulation of Automatic Dialing Machines]; in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and
 - (B) the LPA will not violate the terms of IC §24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.
- (2) The LPA and any officials of the LPA certify that an affiliate or official of the LPA and any agent acting on behalf of the LPA or on behalf of an affiliate or official of the LPA except for de minimis and nonsystematic violations,
 - (A) has not violated the terms of IC §24-4.7 in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and
 - (B) will not violate the terms of IC §24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

- F. **Disadvantaged Business Enterprise Program.** Notice is hereby given to the LPA or a LPA Contractor that failure to carry out the requirements set forth in 49 CFR Sec. 26.13(b) shall constitute a breach of this Contract and, after notification, may result in termination of this Contract or such remedy as INDOT deems appropriate.

The referenced section requires the following policy and disadvantaged business enterprise ("DBE") assurance to be included in all subsequent contracts between the LPA and any contractors, vendors or suppliers:

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

As part of the LPA's equal opportunity affirmative action program, it is required that the LPA shall take positive affirmative actions and put forth good faith efforts to solicit proposals or bids from and to utilize disadvantaged business enterprise contractors, vendors or suppliers.

G. **Disputes.**

1. Should any disputes arise with respect to this Contract, the LPA and INDOT agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.
2. The LPA agrees that, the existence of a dispute notwithstanding, it shall continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the LPA fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by INDOT or the LPA as a result of such failure to proceed shall be borne by the LPA.

3. If a party to the contract is not satisfied with the progress toward resolving a dispute, the party must notify in writing the other party of this dissatisfaction. Upon written notice, the PARTIES have ten (10) working days, unless the PARTIES mutually agree to extend this period, following the notification to resolve the dispute. If the dispute is not resolved within ten (10) working days, a dissatisfied party will submit the dispute in writing according to the following procedure:
4. The PARTIES agree to resolve such matters through submission of this dispute to the Commissioner of INDOT. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the LPA within ten (10) working days after presentation of such dispute for action. The presentation may include a period of negotiations, clarifications, and mediation sessions and will not terminate until the Commissioner or one of the PARTIES concludes that the presentation period is over. The Commissioner's decision shall be final and conclusive unless either party mails or otherwise furnishes to the Commissioner, within ten (10) working days after receipt of the Commissioner's decision, a written appeal. Within ten (10) working days of receipt by the Commissioner of a written request for appeal, the decision may be reconsidered. If a party is not satisfied with the Commissioner's ultimate decision, the dissatisfied party may submit the dispute to an Indiana court of competent jurisdiction.
5. INDOT may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by INDOT to the LPA of one or more invoices not in dispute in accordance with the terms of this Contract will not be cause for LPA to terminate this Contract, and the LPA may bring suit to collect these amounts without following the disputes procedure contained herein.

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

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

1. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
2. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
3. Notifying all employees in the statement required by subparagraph (1) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2)

notify the Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

4. Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (3)(2) above, or otherwise receiving actual notice of such conviction;
 5. Within thirty (30) days after receiving notice under subdivision (3)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
 6. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (1) through (5) above.
- I. **Force Majeure.** In the event either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a Force Majeure Event), the party who has been so affected shall immediately give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.
- J. **Funding Cancellation Clause.** When the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of the performance of this Contract, this Contract shall be canceled. A determination by the Director of the State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.
- K. **Governing Laws.** This Contract shall be construed in accordance with and governed by the laws of the State of Indiana and suit, if any, must be brought in the State of Indiana.
- L. **Indemnification.** The LPA agrees to and shall indemnify, defend, exculpate, and hold harmless the State of Indiana, INDOT and/or its/their officials, agents, representatives, attorneys and employees, individually and/or jointly, from any and all claims, demands, actions, liability and/or liens that may be asserted by the LPA and/or by any other person, firm, corporation, insurer, government or other legal entity, for any claim for damages arising out of any and all loss, damage, injuries, and/or other casualties of whatsoever kind, or by whomsoever caused, to the person or property of anyone on or off the right-of-way, arising out of or resulting from the performance of the contract or from the installation, existence, use, maintenance, condition, repairs, alteration and/or removal of any equipment or material, whether due in whole or in part to the acts and/or omissions and/or negligent acts and/or omissions:
- (a) of the State of Indiana, INDOT, and/or its/their officials, agents, representatives, attorneys and/or employees, individually and/or jointly;
 - (b) of the LPA, and/or its officials, agents, representatives, attorneys and/or employees, individually and/or jointly;

- (c) of any and all persons, firms, corporations, insurers, government or other legal entity engaged in the performance of the contract; and/or
- (d) the joint negligence of any of them, including any claim arising out of the Worker's Compensation law or any other law, ordinance, order, or decree.

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

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

- M. **Merger & Modification.** This Contract constitutes the entire agreement between the PARTIES. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by all necessary PARTIES.
- N. **No Investment in Iran.** As required by IC 5-22-16.5, the LPA certifies that the LPA is not engaged in investment activities in Iran. Providing false certification may result in the consequences listed in IC 5-22-16.5-14, including termination of this Contract and denial of future state contracts, as well as an imposition of a civil penalty.
- O. **Non-Discrimination.**

- 1. Pursuant to I.C. 22-9-1-10 and the Civil Rights Act of 1964, the LPA, shall not discriminate against any employee or applicant for employment, to be employed in the performance of work under this Contract, with respect to hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, color, religion, sex, disability, national origin, ancestry or status as a veteran. Breach of this covenant may be regarded as a material breach of this Contract. Acceptance of this Contract also signifies compliance with applicable Federal laws, regulations, and executive orders prohibiting discrimination in the provision of services based on race, color, national origin, age, sex, disability or status as a veteran.
- 2. The LPA understands that INDOT is a recipient of Federal Funds. Pursuant to that understanding, the LPA, agrees that if the LPA employs fifty (50) or more employees and does at least \$50,000 worth of business with the State and is not exempt, the LPA will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The LPA shall comply with Section 202 of executive order 11246, as amended, 41 CFR 60-250, and 41 CFR 60-741, as amended, which are incorporated herein by specific reference. Breach of this covenant may be regarded as a material breach of Contract.

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

(INDOT's Title VI enforcement shall include the following additional grounds: sex, ancestry, age, income status, religion and disability.)

3. During the performance of this Contract, the LPA, for itself, its assignees and successors in interest (hereinafter referred to as the "LPA") agrees to the following assurances under Title VI of the Civil Rights Act of 1964:
 - a. Compliance with Regulations: The LPA shall comply with the regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, Title 49 CFR Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.
 - b. Nondiscrimination: The LPA, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, sex, national origin, religion, disability, ancestry, or status as a veteran in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The LPA shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulation, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.
 - c. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the LPA for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the LPA of the LPA's obligations under this Contract, and the Regulations relative to nondiscrimination on the grounds of race, color, sex, national origin, religion, disability, ancestry, or status as a veteran.
 - d. Information and Reports: The LPA shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Indiana Department of Transportation and Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of an LPA is in the exclusive possession of another who fails or refuses furnish this information, the LPA shall so certify to the Indiana Department of Transportation or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
 - e. Sanctions for Noncompliance: In the event of the LPA's noncompliance with the nondiscrimination provisions of this Contract, the Indiana Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to: (a) withholding payments to the LPA under the Contract until the LPA complies, and/or (b) cancellation, termination or suspension of the Contract, in whole or in part.
 - f. Incorporation of Provisions: The LPA shall include the provisions of paragraphs a through f in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The LPA shall take such action with respect to any subcontract or procurement as the Indiana Department of Transportation or the Federal Highway Administration may direct as a means

of enforcing such provisions including sanctions for non-compliance, provided, however, that in the event the LPA becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the LPA may request the Indiana Department of Transportation to enter into such litigation to protect the interests of the Indiana Department of Transportation, and, in addition, the LPA may request the United States of America to enter into such litigation to protect the interests of the United States of America.

- P. **Payment.** All payments made by INDOT, if any, shall be made in arrears in conformance with State fiscal policies and procedures and, as required by I.C. 4-13-2-14.8, by electronic funds transfer to the financial institution designated by the LPA in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Contract except as permitted by I.C. 4-13-2-20.
- Q. **Penalties, Interest and Attorney's Fees.** INDOT will in good faith perform its required obligations hereunder, and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law in part, I.C. 5-17-5, I.C. 34-54-8, and I.C. 34-13-1.
- R. **Pollution Control Requirements.** If this Contract is for \$100,000 or more, the LPA:
1. Stipulates any facility to be utilized in performance under or to benefit from this Contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended;
 2. Agrees to comply with all of the requirements of the Clean Air Act (including section 114) and the Federal Water Pollution Control Act (including section 308) and all regulations and guidelines issued there under; and
 3. Stipulates, as a condition of federal aid pursuant to this Contract, it shall notify INDOT and the FHWA of the receipt of any advice indicating that a facility to be utilized in performance under or to benefit from this Contract is under consideration to be listed on the EPA List of Violating Facilities.
- S. **Severability.** The invalidity of any section, subsection, clause or provision of the Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of the Contract.
- T. **Status of Claims.** The LPA shall be responsible for keeping INDOT currently advised as to the status of any claims made for damages against the LPA resulting from services performed under this Contract. The LPA shall send notice of claims related to work under this Contract to:

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

The remainder of this page is intentionally left blank.

Non-Collusion

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

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

LPA: City of Westfield

J. Andrew Cook Mayor
Print or type name and title

[Signature] 5-19-14
Signature and date

Neil VanTrees, Engineer
Print or type name and title

[Signature] 5/19/14
Signature and date

Melody Jones, Director
Print or type name and title Parks & Rec

[Signature] 5/19/14
Signature and date

Attest
[Signature]
Auditor or Clerk Treasurer

This instrument prepared by:
Ellen Hite
May 8, 2014

STATE OF INDIANA

Department of Transportation

Recommended for approval by:

[Signature]
Robert D. Cales, Director
Contract Administration Division

Date: 6/11/2014

Executed by:

[Signature]
Troy A. Woodruff, Chief of Staff

Date: 6/19/14

Department of Administration

[Signature]
Jessica Robertson, Commissioner

Date: 6/25/14

State Budget Agency

[Signature]
Brian E. Bailey, Director

Date: 7-3-14

Approved as to Form and Legality:

[Signature] (FOR)
Gregory F. Zoeller, Attorney General of Indiana

Date: 7/17/14

ATTACHMENT A
PROJECT DESCRIPTION

Des. No.: 1173193

Program: Group I Transportation Enhancement

Type of Project: Other Type Project (Miscellaneous)

Location: Old Monon Trail

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

An other type project (miscellaneous) for the Old Monon Trail from 191st Street to 206th Street in Washington Township, in the City of Westfield, Hamilton County, Indiana.

ATTACHMENT B

LPA'S RIGHTS AND DUTIES

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

1. The LPA has requested and intends to use federal funds to partially pay for the Project. The LPA asserts that the LPA has completed or will complete the Project in accordance with INDOT's Design Manual (See <http://www.in.gov/div/contracts/standards/dm.html>) and all pertinent state and federal laws, regulations, policies and guidance. The LPA or its consultant shall prepare the environmental document(s) for the Project in accordance with INDOT's Environmental Manual (See <http://www.in.gov/indot/7287.htm>). Land acquisition for the Project by the LPA or its consultant shall be in accordance with INDOT's Real Estate Manuals (See <http://www.in.gov/indot/3018.htm>).
2. The LPA acknowledges that in order for the cost of consultant services to be eligible for federal funds or federal credits, the consultant selection must be in accordance with INDOT's consultant selection procedure.
3. REQUIREMENTS FOR ADDITIONAL CONTRACTS
 - A. If the LPA wishes to contract with a consultant, contractor or other agent to complete work on the Project, LPA may:
 1. use the "LPA-CONSULTANT Agreement", which is found at <http://www.in.gov/indot/div/projects/LPASection/> and is incorporated by reference; or
 2. use a form of agreement that has been reviewed and approved by INDOT.
4. The LPA agrees to provide all relevant documents including, but not limited to, all plans, specifications and special provisions, to INDOT for review and approval, and such approval will not be unreasonably withheld. If INDOT does not approve an LPA submittal, the LPA shall cause the submittal to be modified in order to secure INDOT's approval. The LPA understands that if it fails to provide a submittal, submits it late, or the submittal is not approvable, the schedule, cost, and federal funds for the Project may be jeopardized.
5. The LPA agrees to complete all right-of-way acquisition, utility coordination and acquire the necessary permit(s) and submit documentation of such to INDOT. The utility coordination shall be in accordance with 105 IAC 13.
6. At least ninety to one hundred twenty (90 to 120) calendar days prior to INDOT's scheduled construction letting for the project, the LPA will submit to INDOT documentation of the LPA's fiscal body's resolution or other official action irrevocably committing the LPA to fund the LPA's cost of the Project as described in Attachment D.

7. If the LPA has failed to meet any of the requirements of sections 1, 2, 4, 5, or 6 above, INDOT will not let the construction project. If INDOT, and FHWA where necessary, approve LPA's submittals, INDOT shall schedule the Project for letting at the next reasonable date.
8. The LPA shall pay the cost of the invoice of the construction, utility, and/or railroad work within thirty (30) calendar days from the date of INDOT's award of the construction contract.
9. The LPA understands time is of the essence regarding the Project timeline and payment of costs by the LPA. Delays in payment may cause substantial time delays and/or increased costs for the Project. If the LPA has not paid the full amount of the amount billed by INDOT, in accordance with Attachment D, within sixty (60) calendar days past the due date, INDOT shall be authorized to cancel all contracts relating to this contract including the contracts listed in IIA.1 of Attachment D and/or proceed in accordance with I.C. 8-14-1-9 to compel the Auditor of the State of Indiana to make a mandatory transfer of funds from the LPA's allocation of the Motor Vehicle Highway Account to INDOT's account.
10. The LPA shall also be responsible for all costs associated with additional provisions and/or expenses in excess of the federal funds allocated to the project. The LPA, in conjunction with FHWA (if applicable) and INDOT shall review and approve all change orders submitted by the field Project Engineer/Supervisor, and such approvals shall not be unreasonably withheld.
11. The LPA shall provide competent and adequate engineering, testing, and inspection service to ensure the performance of the work is in accordance with the construction contract, plans and specifications and any special provisions or approved change orders. If, in INDOT's opinion, the services enumerated in this section are deemed to be incompetent or inadequate or are otherwise insufficient or if a dispute arises, INDOT shall, in its sole discretion, have the right to supplement the services or replace the engineers or inspectors providing these services at the sole expense of the LPA.
 - A. If project inspection will be provided by full-time LPA employees:
The personnel must be employees of the LPA. Temporary employment or retainage-based payments are not permissible. INDOT must pre-approve, in writing, the LPA's personnel. Only costs incurred after INDOT's written notice to proceed to the LPA shall be eligible for federal-aid participation. All claims for federal-aid shall be submitted to the District office, referenced on Page 1, for payment.

or

- B. If project inspection will be provided by the LPA's consultant:
INDOT must approve, in writing, the consultant personnel prior to their assignment to the project. The LPA shall execute a contract with a consultant setting forth the scope of work and fees. The LPA shall submit this contract to INDOT prior to INDOT's construction letting for the Project. Only costs incurred after INDOT's written notice to proceed to the LPA and the LPA's written notice to proceed to the consultant shall be eligible for federal aid participation. All claims for federal-aid shall be submitted to the District office, referenced on page 1, for payment.

12. The LPA shall submit reports, including but not limited to quarterly reports, to INDOT regarding the project's progress and the performance of work per INDOT standard reporting methods. If the required reports are not submitted, federal funds may be withheld.
13. The LPA hereby agrees that all utilities which cross or otherwise occupy the right-of-way of said Project shall be regulated on a continuing basis by the LPA in accordance with INDOT's Utility Procedure and Accommodation Policy (See <http://www.in.gov/indot/2376.htm>). The LPA shall execute written use and occupancy contracts as defined in this Policy.
14. If FHWA or INDOT invokes sanctions per Section VI.D.2. of the General Provisions of this contract, or otherwise denies or withholds federal funds (hereinafter called a citation or cited funds) for any reason and for all or any part of the Project, the LPA agrees as follows:
 - a. In the case of correctable noncompliance, the LPA shall make the corrections, to the satisfaction of FHWA and INDOT, in a reasonable amount of time. If the LPA fails to do so, paragraph 14.b. and/or 14.c. below, as applicable, shall apply.
 - b. In case a citation for noncompliance is not correctable or if correctable and the LPA does not make any corrections, or if correctable and the LPA makes corrections that are not acceptable to FHWA and INDOT, or for whatever reason the FHWA citation continues in force beyond a reasonable amount of time, this paragraph shall apply and adjustments shall be made as follows:
 1. The LPA shall reimburse INDOT the total amount of all right-of-way costs that are subject to FHWA citation that have been paid by INDOT to the LPA.
 2. If no right-of-way costs have as yet been paid by INDOT to the LPA or to others, INDOT will not pay any right-of-way claim or billing that is subject to FHWA citation.
 3. The LPA agrees that it is not entitled to bill INDOT or to be reimbursed for any of its right-of-way liabilities or costs that are subject to any FHWA citation in force.
 - c. If FHWA issues a citation denying or withholding all or any part of construction costs due to LPA noncompliance with right-of-way requirements, and construction work was or is in progress, the following shall apply:
 1. INDOT may elect to terminate, suspend, or continue construction work in accord with the provisions of the construction contract.
 2. INDOT may elect to pay its obligations under the provisions of the construction contract.
 3. In the case of correctable noncompliance, the LPA shall make the corrections in a reasonable amount of time to the satisfaction of FHWA and INDOT.

4. In case the noncompliance is not correctable, or if correctable and the LPA does not make any corrections, or if correctable and the LPA makes corrections that are not acceptable to FHWA or INDOT, or for whatever reason the FHWA citation continues in force beyond a reasonable amount of time, and construction work has been terminated or suspended, the LPA agrees to reimburse INDOT the full amount it paid for said construction work, less the amount of federal funds allowed by FHWA.
- d. In any case, the LPA shall reimburse INDOT the total cost of the Project, not eligible for federal participation.
- e. If for any reason, INDOT is required to repay to FHWA the sum or sums of federal funds paid to the LPA or any other entity through INDOT under the terms of this Contract, then the LPA shall repay to INDOT such sum or sums within forty-five (45) days after receipt of a billing from INDOT. Payment for any and all costs incurred by the LPA which are not eligible for federal funding shall be the sole obligation of the LPA.

ATTACHMENT C

INDOT'S RIGHTS AND DUTIES

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

1. INDOT shall have full authority and access to inspect and approve all plans, specifications and special provisions for the Project regardless of when those plans, specifications, special provisions or other such Project documents were created.
2. INDOT shall complete all railroad coordination for the Project on behalf of the LPA.
3. After the LPA has submitted and INDOT has accepted and/or approved all pre-letting documents, INDOT will prepare the Engineer's Estimate for construction of the Project.
4. If the LPA owes INDOT money which is more than 60 days past due, INDOT will not open the construction bids for the Project.
5. Not later than sixty (60) calendar days after receipt by INDOT of a certified copy of a resolution from the LPA's fiscal body authorizing the LPA to make payment to INDOT according to the terms of Attachment D, and fulfillment of all other pre-letting obligations of this contract, INDOT shall, in accordance with applicable laws and rules (including I.C. 8-23-9, I.C. 8-23-10, and 105 I.A.C. 11), conduct a scheduled letting.
6. Subject to the LPA's written approval, INDOT shall award the construction contract for the Project according to applicable laws and rules.
7. Not later than seven (7) calendar days after INDOT awards the construction contract described above, INDOT shall invoice the LPA for the LPA's share of the construction cost.
8. If INDOT has received the LPA's share of the Project construction cost and if the lowest qualified bidder has not otherwise been disqualified, INDOT shall issue notice to proceed for the Project to the contractor within fourteen (14) calendar days of its receipt of the LPA share of the construction cost.
9. INDOT shall have the right and opportunity to inspect any construction under this Contract to determine whether the construction is in conformance with the plans and specifications for the Project.
10. In the event the engineering, testing, and inspection services provided by the LPA, in the opinion of INDOT, are deemed to be incompetent or inadequate or are otherwise insufficient or a dispute arises, INDOT shall, in its sole discretion, have the right to supplement the engineering, testing, and inspection force or to replace engineers or inspectors employed in such work at the expense of the LPA. INDOT's engineers shall control the work the same as on other federal aid construction contracts.
11. After the final Project audit is approved by INDOT, the LPA shall, within forty-five (45) days after receipt of INDOT's bill, make final payment to INDOT pursuant to Attachment D or INDOT shall, within forty-five (45) days after approval of the audit, refund any Project overpayment to the LPA.

ATTACHMENT D

PROJECT FUNDS

I. Project Costs.

- A. If the Program shown on Attachment A is receiving **Group I Transportation Enhancement** federal-aid funds for the project, the LPA is allocated the funds through the MPO as written in their fiscally constrained TIP. Any adjustments (positive or negative) to the dollar amount listed in the TIP are hereby considered adjustments to the contract between the LPA and INDOT, as the MPO must maintain fiscal constraint for all projects listed. Federal funds made available to the LPA by INDOT will be used to pay 80% of the eligible Project costs. The maximum amount of federal-aid funds allocated to the Project is \$ 1,460,585.00.

X

OR

- B. Federal-aid Funds made available to the LPA by INDOT will be used to pay _____ % of the eligible Project costs. The maximum amount of federal funds allocated to the project is \$ _____.

- C. The LPA understands and agrees that in accordance with I.C. 8-23-2-14, federal reimbursement for construction inspection and testing construction materials, after INDOT retains 2.5% of the final construction costs for oversight, is limited to:

- (1) 14.5% of the final construction cost if the final construction cost is less than or equal to \$500,000; or
- (2) 12.5% of the final construction cost if the final construction cost is greater than \$500,000.

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

- E. Costs will be eligible for FHWA participation provided that the costs:

- (1) Are for work performed for activities eligible under the section of title 23, U.S.C., applicable to the class of funds used for the activities;
- (2) Are verifiable from INDOT's or the LPA's records;
- (3) Are necessary and reasonable for proper and efficient accomplishment of project objectives and meet the other criteria for allowable costs in the applicable cost principles cited in 49 CFR section 18.22;
- (4) Are included in the approved budget, or amendment thereto; and

- (5) Were not incurred prior to FHWA authorization.

II. Billings.

A. Billing:

1. When INDOT awards and enters into a contract (i.e., construction, utility, and/or railroad) on behalf of the LPA, INDOT will invoice the LPA for its share of the costs. The LPA shall pay the invoice within thirty (30) calendar days from date of INDOT's billing.
2. The LPA understands time is of the essence regarding the Project timeline and costs and delays in payment may cause substantial time delays and/or increased costs for the Project.
3. If the LPA has not paid the full amount due within sixty (60) calendar days past the due date, INDOT shall be authorized to cancel all contracts relating to this Contract, including the contracts listed in II.A.1 of Attachment D and/or proceed in accordance with I.C. 8-14-1-9 to compel the Auditor of the State of Indiana to make a mandatory transfer of funds from the LPA's allocation of the Motor Vehicle Highway Account to INDOT's account.

B. Other Costs:

1. The LPA shall pay INDOT for expenses incurred in performing the final audit less the amount eligible for Federal-aid reimbursement.
2. The LPA shall pay INDOT for expenses incurred in supervising the Project out of the maximum limitation shown in section I.C. of Attachment D.

III. Repayment Provisions.

If for any reason, INDOT is required to repay to FHWA the sum or sums of federal funds paid to the LPA or on behalf of the LPA under the terms of this Contract, then the LPA shall repay to INDOT such sum or sums within thirty (30) days after receipt of a billing from INDOT. If the LPA has not paid the full amount due within sixty (60) calendar days past the due date, INDOT may proceed in accordance with I.C. 8-14-1-9 to compel the Auditor of the State of Indiana to make a mandatory transfer of funds for the LPA's allocation of the Motor Vehicle Highway Account to INDOT's account until the amount due has been repaid.

CONTRACT FOR GOODS AND SERVICES

This Contract for Goods and Services (“Vendor Contract”) is made and entered into as of the 26th day of April 2017, by and between City of Westfield (“Contracting Party”) and Baumgartner & Company Asphalt Services (“Vendor”).

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

- A. **Basic Terms.** This Vendor Contract is on the following basic terms and conditions:
- (a) Goods and/or services provided by Vendor: (See Exhibit B attached hereto and made a part hereof).
 - (b) Location: Various thoroughfare and residential streets throughout Westfield, Indiana 46074 (the “City Property”)
 - (c) Date by which the Services shall be completed: To start May 15, 2017 and complete by August 12, 2017 (the “Completion Date”).
 - (d) Purchase Price: One Million Five Hundred Ninety-Four Thousand Dollars and 00/100, \$1,594,000.00 (see Proposal dated 04.19.17 - Exhibit B).
 - (e) Liquidated Damages shall be assessed at \$1,000.00 per day for each day work is not complete after the specified completion dates.
 - (f) The Contracting Party provides two payment options to vendors for payment of approved invoiced amounts. They are as follows:
 - a. Option #1: Traditional – Invoices shall be payable within forty-five (45) days following Contracting Party’s receipt and approval of an invoice at the address specified below.
 - b. Option #2: Preferred – Invoices are payable within 7 days following Contracting Party’s receipt and approval of an invoice at the address specified below if vendor accepts MasterCard.
 - (g) The Contract Documents include:
 - a. This Goods and Services agreement
 - b. “Contract and Specifications for 2017 Resurfacing Project” dated March 29, 2017 inclusive of all sections and appendixes.
 - c. Addendum #1 Dated April 14, 2017

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

(h) Addresses:

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

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

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

If to Vendor:

Baumgartner & Company Asphalt Services
15215 River Road
Noblesville, IN 46062

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

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

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

CONTRACT TERMS AND CONDITIONS

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

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

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

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

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

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

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

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

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

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

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

10. **REQUIRED INSURANCE AND INDEMNIFICATION:**

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

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

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

- (b) The insurance shall be procured from companies authorized to do business in the state of Indiana. Except as otherwise expressly set forth herein, coverage shall be on an occurrence basis. All insurance procured or maintained by Vendor on which the Contracting Party is an additional insured, shall be primary. Any insurance maintained by Contracting Party shall be considered excess and non-contributory. Vendor shall permit Contracting Party to examine the actual policies upon request at the Vendor's offices where the policy is stored.
- (c) A Certificate of Insurance acceptable to Contracting Party shall be submitted to Contracting Party prior to commencement of any work hereunder, including, without limitation, a certificate issued by the Industrial Board or other appropriate agency in the State of Indiana showing that the Worker's Compensation and other employee benefit insurance is in full force and effect. Each insurer shall possess an A.M. Best's rating of no less than A-VIII as of inception of this Contract. The Certificate of Insurance shall contain a provision that coverage shall not be canceled unless at least thirty (30) days' prior written notice has been given to Contracting Party. The Certificate of Insurance shall name the Contracting Party as an additional insured with respect to all but the Worker's Compensation, Employee Liability, and Professional Liability coverage. The additional insured endorsement shall state that coverage is afforded the additional insured as primary and non-contributory. In addition, each Certificate of Insurance shall provide that the Certificate Holder is the Contracting Party, c/o City of Westfield. Vendor shall not have earned any fees nor be due any payments hereunder unless and until such Certificate of Insurance is received by Contracting Party.
- (d) Vendor shall indemnify and hold harmless Contracting Party, and its employees from and against any and all liability, claim, damage, loss or expense (including, without limitation, court costs and reasonable attorneys' fees) to the extent caused by any negligence of the Vendor, its employees or sub Vendors, in the performance of the services under this contract, but not to the extent arising directly out of the negligence of Contracting Party. This subparagraph (d) shall survive the expiration or termination of this Contract.
- (e) Without limiting anything set forth in this paragraph 10, the following additional insurance coverage limits are required for the professional engineering services specifically required by the scope of the contracted goods and services: \$1,000,000 per claim and \$1,000,000 general aggregate professional liability, with retroactive coverage to the earlier of date of execution of Contract and commencement of any work and coverage for a minimum period of two (2) years after professional services completion.

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

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

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

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

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

15. **GOVERNMENT COMPLIANCE**: Vendor agrees to comply with all present federal, state and local laws, orders, rules, regulations, codes and ordinances which may be applicable to Vendor's performance of its obligations under this Contract, and all provisions required thereby to be included herein, are hereby incorporated by reference. Vendor agrees to indemnify and hold harmless Contracting Party from and against any loss, damage, liability, cost or expense (including, without limitation, attorneys' fees) resulting from any violation of such laws, orders, rules, regulations, codes or ordinances by Vendor.

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

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

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

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

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

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

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

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

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

25. **IRCA COMPLIANCE:** The Immigration Reform and Compliance Act of 1986 (IRCA) prohibits the employment of unauthorized aliens and requires all employers to: (1) not knowingly hire or continue to employ any person not authorized to work in the United States, (2) verify the employment eligibility of every new employee (whether the employee is a U.S. citizen or an alien), and (3) not engage in discrimination against qualified workers. The Vendor shall comply with IRCA and all other applicable federal, state and local immigration laws, regulations, Executive Orders (“other immigration laws”) and by executing this Agreement, warrants that it is in full compliance with all applicable immigration laws including, but not limited to, IRCA and has used E-Verify to pre-screen job applicants and re-verify current employees. Vendor shall not be required to verify the work eligibility status of all newly hired employees of the contractor through the E-Verify program if the E-Verify program no longer exists. Vendor shall immediately remove any employee known to be an unauthorized alien. Failure to comply with IRCA or other immigration laws shall constitute a material breach of this Agreement. The Vendor shall indemnify the City of Westfield against all damages, losses and expenses, including attorneys’ fees, incurred or sustained by the City of Westfield as a result of the Vendor’s failure to comply with IRCA or other immigration law. Vendor shall include this provision in any subcontracts or subordinate agreements it enters into with respect to this Agreement. Vendor shall also sign and have notarized the Affidavit of Employee Status (Attachment 2).

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

EXECUTED this _____ day of _____, 2017.

Contracting Party:

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

Vendor:

Baumgartner & Company Asphalt Services
15215 River Road
Noblesville, IN 46062

Signature

Signature

Printed Name

Printed Name

Title

Title

Date

Date

EXHIBIT A

Project Rules

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

SITE ACCESS

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

LIMITED CITY OCUPANCY (If Applicable)

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

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

MATERIAL MANAGEMENT PLAN

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

CLEAN UP

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

WORK HOURS

- ❑ It is the expectation of City that ALL Contractors and subcontractors limit work to normal business working hours, Monday through Friday, unless otherwise required or approved in advance by City.
- ❑ The Work of this Project shall be accomplished during normal working hours and days. Contractors planning to work on weekends or observed holidays must schedule with the authorized Owner agent, no later than 48 hours prior to the anticipated work day.
- ❑ Normal working hours and days are defined as:
 - Mondays through Fridays, 7:00 a.m. to 6:00 p.m. (typical)
 - Weekends (Saturday and Sunday), as scheduled and approved in advance by the City.
 - No work shall be performed on days of normal observance of the following holidays:
 - New Year's Day
 - Memorial Day
 - Independence Day
 - Labor Day
 - Thanksgiving Day and the Friday following
 - Christmas Day
- ❑ Requests for work on non-normal work days or outside the defined normal working hours of this project, does not constitute an approval of said request and may need to be rescheduled to provide adequate security and supervision as required by Contract.

- ❑ No use of power actuated tools or hammer drills is permitted at an occupied City building or adjacent to private residence and/or business between the hours of 7:00 AM and 5:00 PM, or as directed by City officials

PUBLIC ACCESS AND SAFETY

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

SITE DECORUM

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

- ❑ Fighting and horseplay on the project site are absolutely forbidden. Participants in fights will be escorted from the premises and not permitted to return.

PARKING

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

UTILITY COORDINATION

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

USE OF ROADWAYS AND PATHS

- ❑ Comply with limitations on use of public streets and with other requirements of authorities having jurisdiction.
- ❑ Use of the City Park paths or perimeter trails, including those at Grand Park, is discouraged but we understand that in many cases cannot be avoided. Please coordinate in advance any vehicle or equipment size and weight with the City prior to mobilizing on site.
- ❑ Where materials are transported in the performance of this Work, do not load vehicles beyond the capacity recommended by the manufacturer of the vehicles or prescribed by any applicable state or local law or regulation.
- ❑ Provide protection against damage whenever it is necessary to cross existing paths, sidewalks, curbs, and gutters on the City project. Repair and make good at the expense of Contractor all damages thereto, including damage to existing utilities and paving, arising from the operations under the Contract.

- ❑ Access onto any athletic field at Sports Campus at Grand Park or onto any City owned property with irrigation installed is strongly discouraged. Contractor shall protect all playing surfaces and site utilities that could be compromised by the construction activities of the Contractor.
- ❑ Truck staging is not allowed on any City street surrounding the Project.
- ❑ Promptly clean all public right-of-ways should dirt or other debris from site be deposited on roads and streets by the Contractor or vehicles used to deliver or conduct the scope of this agreement.
- ❑ It is the responsibility of ALL Contractors to provide flag person(s) at pedestrian crossings of construction equipment at right of ways or pedestrian paths one hundred percent of the time such equipment is operating.

TRAFFIC CONTROL

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

CRANES & HOISTING

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

TEMPORARY SHORING AND BRACING

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

TEMPORARY BARRICADES

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

CONSTRUCTION SIGNAGE

- ❑ Advertising Signage: The use of Contractor/subcontractor advertising signage is strictly prohibited.
- ❑ No ground-mounted signage is allowed on the project site without the expressed written consent of the City.
- ❑ Signage is authorized on construction trailers and corporate-owned equipment and vehicles. Such signage cannot exceed 6' by 4' (24 square feet) in size. Trailers in violation shall be removed from the site by the Contractor and the Contractor shall have the site storage privileges revoked
- ❑ Signage to be fabricated from new materials and constructed from materials able to withstand construction use/abuse and exposure based upon its proposed installation location for its intended use.

❑ Project Specific Signage:

- ALL signage shall be as approved by the City and the authority having jurisdiction.
- All employee personnel informational signage shall be bilingual (English and Spanish) as requested by the City.
- All project specific signage shall include the City logo and project name incorporated into the design of each sign for the project.

TEMPORARY FACILITIES

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

RUBBER TIRED EQUIPMENT

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

REMOVAL OF TEMPORARY FACILITIES

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

VIOLATIONS

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

GENERAL SAFETY PRECAUTIONS

- ❑ Safe working practices shall be observed at **all times**. The safety of your employees, the buildings and the work site is considered to be paramount. All work shall be conducted and completed by the guidelines set forth by the Federal, Local and State Authorities.
- ❑ The City of Westfield is a "Safe City". Any worker or person on a jobsite shall have 100% protection as defined by OSHA for the hazards that they may be exposed. This includes but is not limited to 100% eye protection, hard hat and hi-visibility vest at all times when on-site.
- ❑ Proper gloves are to be used to limit abrasions and cuts. Hearing protection shall be accessible to employees and used whenever exposed to noises that require such protective devices.
- ❑ Fall protection shall be worn, observed or employed when working at a height greater than 6' unless approved in writing by the City and OSHA/IOSHA. This fall protection directive is to be used at all times and includes activities utilizing articulating boom lifts, scissors lifts, ladders, scaffolding and any other activity where workers are exposed to a fall and shall compile with the provisions of OSHA and IOSHA.
- ❑ Any and all "Hot Work" shall have an appropriate fire extinguisher immediately accessible and be pre-approved by the City officials.

- ❑ All electrical service shall be properly protected with a GFCI, including the use of extension cords on permanent power.
- ❑ Eye protection shall be worn at all times when cutting, grinding, chipping, drilling or using power actuated tools.
- ❑ Safety manuals and MSDS sheets must be turned in to the assigned City representative prior to commencing work on site. These manuals are still to be maintained by the Contractor on site for use and reference by any authority having jurisdiction.
- ❑ The City of Westfield is a “Safe City”. In the event of an accident or near-miss, the employees involved may be required to perform a drug and alcohol screening prior to being able to continue working on site.

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

EXHIBIT B

See attached Proposal dated 04.19.17

The City did not accept any alternates, so those documents are not attached.

SECTION 3

PROPOSAL

CITY OF WESTFIELD, INDIANA

2017 Resurfacing Project

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

Pursuant to the published "Advertisement for Bids", the undersigned has investigated the conditions affecting the cost of the proposed 2017 Resurfacing Project and having examined the site and understanding the requirements set forth in the Contract Documents, hereby proposes to provide and furnish all labor, materials, tools, equipment and all utility and transportation services necessary to perform and complete, in a workmanlike manner, all the above work as required by said Contract Documents, including any and all addenda now on file in the Westfield Public Works office, City of Westfield, Indiana.

The project generally includes milling, wedging, full depth patching, resurfacing, maintenance of traffic, and striping various thoroughfares and residential streets throughout the City of Westfield.

The project will be awarded to the lowest and most responsible bidder based on the combined total base bid plus any accepted alternates as selected by the Owner. The program will be located throughout the Westfield corporate limits.

The undersigned proposes to furnish all work for the construction of the 2017 Resurfacing Project, including all labor, materials, supplies, equipment and all appurtenances necessary to complete the work as per the drawings and the specifications for the following unit prices, to wit:

Schedule – The undersigned agrees to be complete with the base bid work 90 calendar days after the Notice to Proceed has been issued. If work is not completed by the specified dates above, liquidated damages will be assessed at \$1,000.00 per day.

Bidder acknowledges the schedule of this contract (initial): _____

The remainder of this page is intentionally left blank

Project Description

Base Bid

- **161st Street from Oak Ridge Road to the Monon Trail and Viking Lair Road Patch (Appendix B)**
 - 2-3 Full Depth Patches on 161st Street near Viking Lair Road
 - 1 Full Depth Patch including surface at the intersection of Viking Lair Road and Silverheels Drive
 - 2" Mill and Resurface
- **161st Street from Gray Road to Adare Way (Appendix C)**
 - 2" Mill and Resurface
 - Wedge and leveling possible
- **169th Street and 171st Street from Spring Mill Road to Ditch Road (Appendix D)**
 - Multiple Full Depth Patching locations
 - 2" Mill and Resurface
 - Wedge and leveling possible
- **175th Street, Tiller Court, and Austrian Pine Way from SR 32 to Pine Ridge Subdivision (Appendix E)**
 - 2-3 Full Depth Patches anticipated
 - 1.5" Mill and Resurface
- **Cherry Street (Appendix F)**
 - 2 Full Depth Patches anticipated
 - Wedge and leveling will be required in NB lane south of South Street to super elevate that portion of the road ~0.5% for drainage purposes
- **Greyhound Pass from Oak Ridge Road to Spring Mill Road including Derby Court and Roman Court (Appendix G)**
 - Neighborhood previously had an HMA overlay that extended over the gutter pan of the curb
 - Milling depth will vary. Goal is to be 2" below the curb. Appeared that the overlay was thicker at intersections, which are the low points for the subdivision.
 - 2" Resurface
- **Oak Road from 161st Street to 171st Street (Appendix H)**
 - Full Depth Patching and Wedge and Leveling anticipated
 - 2" Mill and Resurface
 - Will avoid the bridge/culvert crossing just south of Emerald Pines Lane as there is only a 1" HMA overlay of the wooden deck
- **Oak Road from Silver Thorne Subdivision to 147th Street (Appendix I)**
 - Full Depth Patching anticipated
 - 1.5" Mill and Resurface

- **Southpark Drive from 169th Street south to bend in the road (Appendix J)**
 - Multiple Full Depth Patching locations
 - 2" Mill and Resurface
 - Remove median at 169th Street and full depth patch
 - Will have to revise existing striping once median is removed to show a left and right turn lane on to 169th Street
- **Union Street from South Street to Valley Farms Drive (Appendix K)**
 - Full Depth Patching anticipated
 - 2" Mill and Resurface
 - There is fabric 1" below the current HMA overlay at least from Valley Farms Drive north to David Brown Drive. Unsure if it extends from David Brown Drive to South Street, but would assume that it does.
- **Crestview Subdivision (Appendix L)**
 - Multiple Full Depth Patching locations
 - 1.5" Mill and Resurface
- **Emerald Place Subdivision (Appendix M)**
 - Full Depth Patching anticipated
 - 1.5" Mill and Resurface
- **The Pines of Westfield Subdivision (Appendix N)**
 - Full Depth Patching anticipated
 - 1.5" Mill and Resurface
- **Willow Creek Subdivision off of SR 32 (Appendix O)**
 - Multiple Full Depth Patching locations
 - 1.5" Mill and Resurface
- **Woodside Drive (Appendix P)**
 - 2 Full Depth Patches
 - 2" Mill and Resurface
 - Current pavement is 0.5" chip and seal on 5" HMA with scattered concrete crossings just under the chip and seal layer
- **Random Patching (Appendix Q)**
 - See table in Section 10 for locations and more information
 - These will be full depth and include the surface layer
- **Little Eagle Creek Ave (Appendix R)**
 - 2 different locations
 - 2" Mill and Resurface

BASE BID ITEMIZED PROPOSAL
(SEE BREAKDOWN AT THE END OF THIS SECTION FOR FURTHER INFORMATION)

ID	ITEM NO.	DESCRIPTION	UNIT	ESTIMATED QUANTITY	UNIT PRICE	AMOUNT
1	110-01001	MOBILIZATION AND DEMOBILIZATION	LS	1	\$ 77,464.13	\$ 77,464.13
2	203-02000	COMMON EXCAVATION	CYS	13	\$ 125.00	\$ 1,625.00
3	304-07490	HMA PATCHING, TYPE B, UNDISTRIBUTED	TON	2,407	\$ 120.00	\$ 288,840.00
4	306-08034	MILLING, ASPHALT, 1 ½ IN	SYS	79,685	\$.95	\$ 75,700.75
5	306-08035	MILLING, ASPHALT, 2 IN	SYS	70,563	\$ 1.10	\$ 77,619.30
6	306-08040	MILLING, ASPHALT, VARIABLE DEPTH, 3 TO 5 IN	SYS	25,974	\$ 1.60	\$ 41,558.40
7	306-08432	MILLING, APPROACH	SYS	2,226	\$ 4.00	\$ 8,904.00
8	402-07433	HMA SURFACE, TYPE B, 9.5 mm	TON	14,239	\$ 50.00	\$ 711,950.00
9	402-07434	HMA SURFACE, TYPE C, 9.5 mm	TON	2,904	\$ 60.00	\$ 174,240.00
10	402-07451	HMA WEDGE AND LEVEL, TYPE B, UNDISTRIBUTED	TON	127	\$ 70.00	\$ 8,890.00
11	402-07452	HMA WEDGE AND LEVEL, TYPE C, UNDISTRIBUTED	TON	45	\$ 80.00	\$ 3,600.00
12	406-05521	ASPHALT FOR TACK COAT	TON	44	\$ 100.00	\$ 4,400.00
13	610-07486	HMA FOR APPROACHES, TYPE B	TON	183	\$ 100.00	\$ 18,300.00
14	610-07488	HMA FOR APPROACHES, TYPE C	TON	28	\$ 110.00	\$ 3,080.00
15	801-06203	MAINTENANCE OF TRAFFIC	LS	1	\$ 45,000.00	\$ 45,000.00
16	801-06775	TEMPORARY PAVEMENT MARKING, 4 IN	LFT	496	\$ 12.00	\$ 5,952.00
17	808-06703	LINE, THERMOPLASTIC, SOLID, WHITE, 4 IN	LFT	27,641	\$.42	\$ 11,609.22
18	808-75245	LINE, THERMOPLASTIC, SOLID, YELLOW, 4 IN	LFT	52,760	\$.42	\$ 22,159.20
19	808-75043	LINE, THERMOPLASTIC, SOLID, WHITE, 6 IN	LFT	11,140	\$.60	\$ 6,684.00
20	808-75300	TRANSVERSE MARKING, THERMO, CROSSWALK LINE, 6 IN	LFT	102	\$ 2.00	\$ 204.00
21	808-75272	TRANSVERSE MARKING, THERMO, CROSSWALK LINE, WHITE, 24 IN	LFT	456	\$ 7.00	\$ 3,192.00
22	808-75297	TRANSVERSE MARKING, THERMO, STOP LINE, 24 IN	LFT	154	\$ 7.00	\$ 1,078.00

23	808-75320	PAVEMENT MESSAGE MARKING, THERMO, LANE INDICATION ARROW	EA	9	\$ 100.00	\$ 900.00
24	808-75325	PAVEMENT MESSAGE MARKING, THERMO, (ONLY)	EA	7	\$ 150.00	\$ 1,050.00
Total						\$ 1,594,000

Base Bid Amount in words for 2017 Resurfacing Project:

One Million five hundred ninety four thousand Dollars and 00 /100

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

The undersigned encloses herewith a certified check or cashier's check payable to the City of Westfield, Indiana or a bidder's bond binding the undersigned and surety to the City of Westfield, Indiana, in the amount of

Twelve Thousand Dollars & Zero Cents

_____ Dollars (\$ 12,000.00),

which amount is not less than five percent (5%) of the base bid as set out above, guaranteeing that the undersigned will enter into Contract for the performance of the work once the Proposal is accepted. Form 96, Contractors Bid for Public Works, of the Indiana State Board of Accounts is also properly executed and attached hereto. A Noncollusion Affidavit, as required by the statutes of the State of Indiana, is properly executed and attached hereto, if not included on the Form 96.

It is hereby agreed that this proposal shall remain in full force and effect and may not be withdrawn for a period of 90 days from the date of receiving proposals by the City of Westfield, Indiana.

Receipt of Addenda No. 1 is hereby acknowledged.

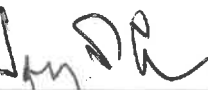
Respectfully submitted,

Baumgartner & Company Asphalt Services

Contractor

(Individual___) (Partnership___)
or (Corporation X)

By



Jason Skwarcan

Title Sales Manager

Dated:

Address 15215 River Road

April 19

, 20 17

Noblesville, IN 46062

NOTE: The legal status of the Bidder, whether as an individual, partnership, or corporation, must be indicated above, and all pertinent information as required by the Specifications must be furnished.

Attachment 1

Addenda No. 1

**2017 Resurfacing Project
WESTFIELD, INDIANA**

ADDENDA NO. 1

DATE: April 14, 2017

To All Plan Buyers of Record:

The following items have been included:

- Contractor Questions and Answers

Should you desire to submit a bid, please do so on the basis of the information set out above.

Dustin Shoe
City of Westfield
Email: dshoe@westfield.in.gov
Phone: 317-450-6765

**PLEASE ACKNOWLEDGE THIS CONTRACT ADDENDA IN THE CONTRACT
DOCUMENTS WITHIN THE PROPOSAL BEFORE SUBMITTING YOUR BID.**

Contractor Questions:

Q1: Looking for a clarification on the temporary striping item, would temp foil tape be allowed on the base course and would it have to be removed prior to the surface course.

A1: All temporary striping shall be Type I tape per INDOTSS 801. Per INDOTSS 801 all temporary pavement marking tape shall be removed.

Q2: Can you please give us the pavement materials & depths for the "Full Depth Patching" areas?

A2: This information can be found in Section 10 Special Provisions – subsection 10.9.

Attachment 2

The Affidavit of Employee Status shall be signed and notarized.

AFFIDAVIT OF EMPLOYEE STATUS

Re: Project – 2017 Resurfacing Project

WHEREAS, the City of Westfield, Hamilton County, Indiana, hereinafter referred to as the “City” is in the process of construction work on the 2017 Resurfacing Project, hereinafter referred to as the “Project”;

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

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

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

Signature:

Signature:

Printed Name:

Printed Name:

STATE OF INDIANA:

SS:

COUNTY OF

:

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

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

Signature

Printed Name

My Commission expires _____

I am a resident of _____ County.

CITY OF WESTFIELD BY:

, Director of Public Works

STATE OF INDIANA:

SS:

COUNTY OF HAMILTON:

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

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

Signature

Printed Name

My Commission expires _____

I am a resident of _____ County.

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

Attachment 3

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



Invoice Date:	
Invoice or App Number:	

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

Westfield Project Name:	2017 Resurfacing
Westfield Project Number:	1710012
Westfield Project Manager:	Dustin Shoe
Westfield PO Number:	

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

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

Westfield Police Department

Monthly Performance Measures Report



Board of Public Works & Safety

March 2017

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a) Events by Nature/Calls for Service	1
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2. Community Events	10
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WESTFIELD POLICE DEPARTMENT

March 2017

Events by Nature

911 Hang Up	36
Abandoned Vehicle	7
Abuse / Neglect	5
Accident - Hit & Run	10
Accident - Other	1
Accident - Property Damage	49
Accident - Personal Injury	7
Accident - Unknown	4
Alarm - Other	1
Alarm - Burglar	154
Alarm - Hold Up	9
Animal Bite / Attack	2
Animal Complaint	31
Assist Fire	26
Assist Other Department	42
Assist Public	44
Battery	5
Burglary	7
Case Follow Up	90
Child Seat Inspection	6
Civil Dispute	11
Criminal Mischief	32
Death Investigation	0
Directed Patrol	681
Disturbance	23
Driving Complaint	112
Drug Complaint	8
Found / Lost Property	26
Fraud / Deception	19
Harassment	29
Intoxicated Person	3
Investigation	10
Juvenile Complaint	13

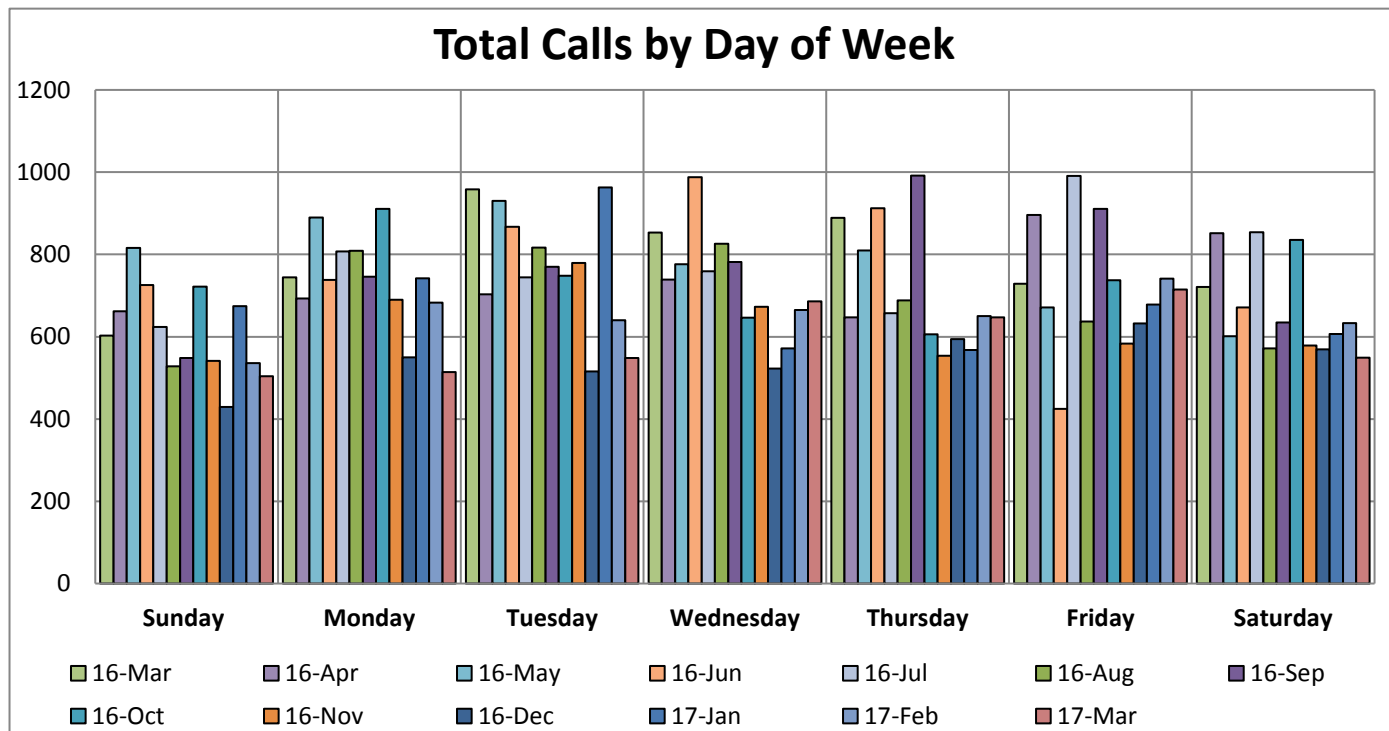
K9 Detail	3
Lock Out	68
Loud Party	2
Mental Emotional - Violent	3
Mental Person	1
Miscellaneous	16
Missing Person	5
Nuisance	1
Ordinance Misc.	7
Parking Complaint	6
Physical Disturbance	7
Reckless Activity	1
Road Rage	1
Runaway	4
Security Check	1358
Sex Offense	2
Special Detail	4
Suspicious Activity	91
Theft	34
Theft - From a Vehicle	9
Theft - of a Vehicle	11
Threat to Life	3
Threatening Suicide	8
Traffic Hazard	45
Trespassing	6
Traffic Stop	864
Unknown Call for Police	1
VIN Check	37
Wanted	1
Warrant Service	7
Weapons Complaint	3
Welfare Check	44
Total	4163

WESTFIELD POLICE DEPARTMENT

March 2017

Total # of Calls by Day of Week

DAY	16-Mar	16-Apr	16-May	16-Jun	16-Jul	16-Aug	16-Sep	16-Oct	16-Nov	16-Dec	17-Jan	17-Feb	17-Mar
Sunday	603	662	816	726	624	528	548	722	541	429	674	536	504
Monday	744	693	890	738	807	809	746	911	690	550	742	683	514
Tuesday	958	703	930	867	744	817	770	748	779	516	963	640	548
Wednesday	853	739	776	988	759	826	782	646	673	523	572	665	686
Thursday	889	647	810	912	657	688	992	606	554	594	568	650	647
Friday	729	896	671	425	991	637	911	737	583	632	678	741	715
Saturday	721	852	601	671	854	572	635	835	579	569	607	633	549
TOTAL	5497	5192	5494	5327	5436	4877	5384	5205	4399	3813	4804	4548	4163



WESTFIELD POLICE DEPARTMENT

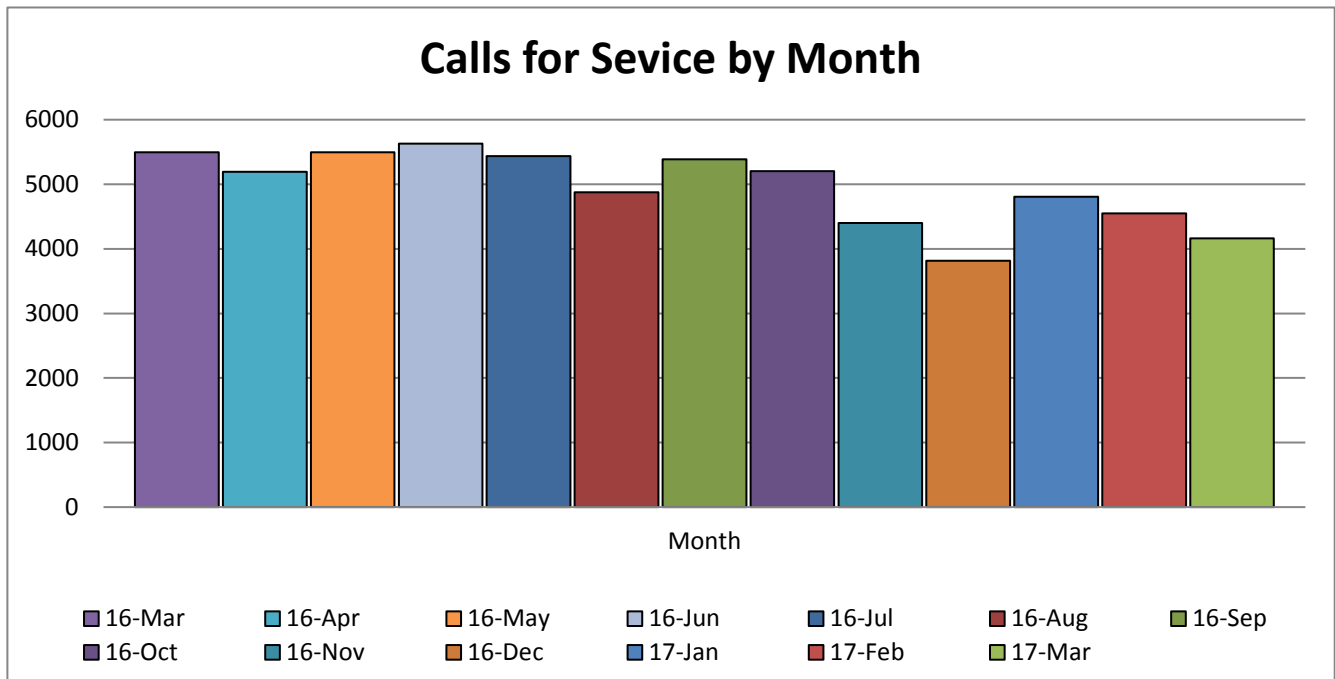
March 2017

Total # of Calls by Hour of Day

HOURL	16-Mar	16-Apr	16-May	16-Jun	16-Jul	16-Aug	16-Sep	16-Oct	16-Nov	16-Dec	17-Jan	17-Feb	17-Mar
0	243	197	211	266	310	217	268	258	197	182	237	209	174
1	231	168	213	195	232	209	261	262	256	182	280	215	201
2	274	182	179	186	182	183	228	204	191	131	198	222	154
3	246	229	154	197	174	163	167	211	168	116	139	172	171
4	164	102	97	112	131	122	115	137	94	91	144	146	140
5	152	194	231	185	215	159	184	218	174	117	238	255	225
6	238	241	308	266	273	210	262	247	183	162	287	294	238
7	351	349	331	287	222	262	271	246	211	226	219	232	269
8	261	231	231	256	195	264	247	223	173	176	166	191	184
9	213	209	226	248	205	185	198	193	170	147	151	145	150
10	262	277	314	348	258	296	293	242	235	208	169	196	229
11	196	209	231	230	210	183	205	166	169	160	124	131	142
12	186	147	187	181	168	140	168	156	163	115	132	151	164
13	212	243	263	260	189	242	224	206	175	179	220	154	193
14	233	259	251	224	220	209	232	193	213	155	219	184	170
15	210	218	244	194	232	194	203	181	179	143	169	172	156
16	169	164	211	212	180	140	170	130	134	112	147	142	136
17	262	230	209	259	230	203	234	177	125	139	138	149	122
18	378	334	369	434	383	323	363	350	323	291	332	258	205
19	278	230	323	275	344	259	302	326	271	211	285	228	197
20	80	87	100	76	105	108	150	178	136	131	120	124	96
21	141	170	154	180	183	167	150	188	87	93	150	128	111
22	247	281	227	272	316	225	223	229	175	162	279	191	163
23	270	241	230	284	279	214	266	284	197	184	261	259	173
TOTAL	5497	5192	5494	5627	5436	4877	5384	5205	4399	3813	4804	4548	4163

WESTFIELD POLICE DEPARTMENT

March 2017



WESTFIELD POLICE DEPARTMENT

February 2017

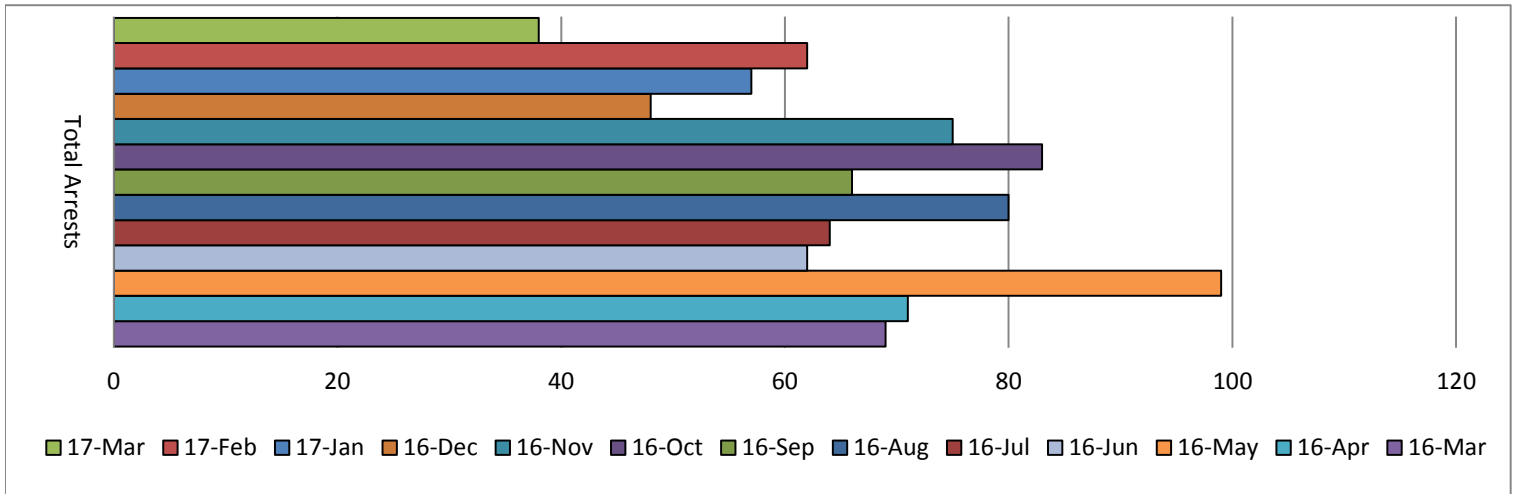
UCR OFFENSES

OFFENSE	16-Mar	16-Apr	16-May	16-Jun	16-Jul	16-Aug	16-Sep	16-Sep2	16-Nov	16-Dec	17-Jan	17-Feb	17-Mar
Arson	0	0	0	0	0	0	0	0	0	0	0	0	0
Homicide	0	0	0	0	0	0	0	0	0	1	0	0	0
Rape	0	0	1	0	0	0	0	1	0	0	0	0	0
Robbery	0	0	0	0	0	0	0	0	1	0	3	0	0
Battery - Aggravated	3	0	2	0	0	2	0	6	1	1	2	4	1
Battery - Simple	15	11	11	11	13	23	18	10	22	18	11	9	13
Burglary	1	1	2	2	1	5	3	0	1	1	7	2	4
Theft	30	32	44	37	44	30	25	31	36	18	33	25	27
Motor Vehicle Theft	0	2	1	2	1	1	3	1	1	1	2	0	2
TOTAL	49	46	61	52	59	61	49	49	62	40	58	40	47

WESTFIELD POLICE DEPARTMENT

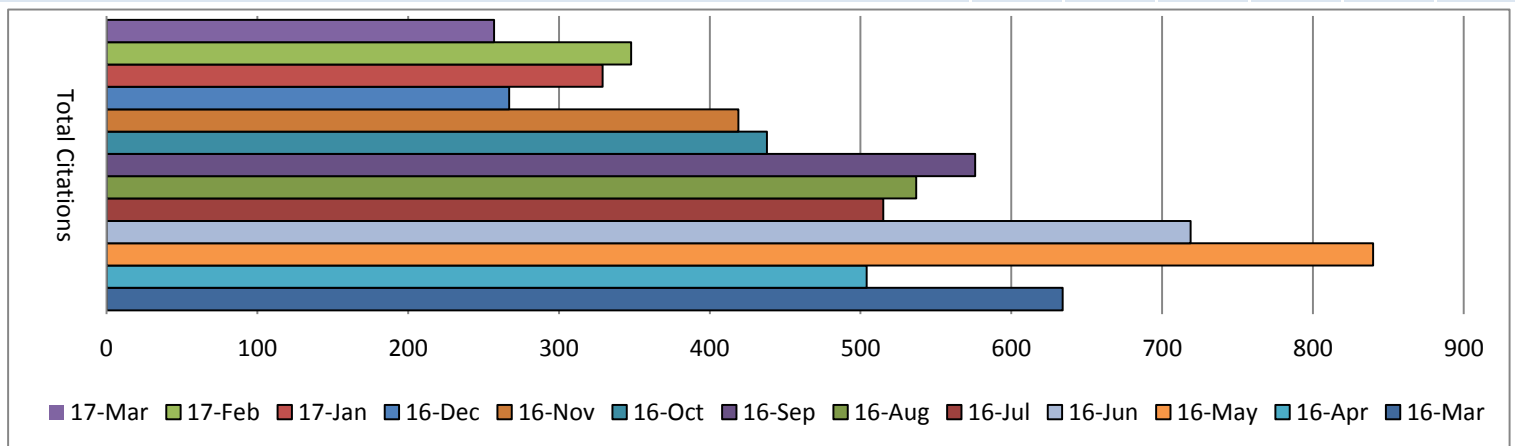
March 2017

Arrest Reports Taken	16-Mar	16-Apr	16-May	16-Jun	16-Jul	16-Aug	16-Sep	16-Oct	16-Nov	16-Dec	17-Jan	17-Feb	17-Mar
Alcohol/ Drug Related	22	29	50	23	37	32	26	33	32	15	21	35	17
Felony Charges	23	8	27	17	18	17	9	20	27	20	24	21	17
Misdemeanor Charges	81	102	131	86	83	94	74	106	98	57	75	79	35
Total Arrests	69	71	99	62	64	80	66	83	75	48	57	62	38



Traffic	16-Mar	16-Apr	16-May	16-Jun	16-Jul	16-Aug	16-Sep	16-Oct	16-Nov	16-Dec	17-Jan	17-Feb	17-Mar
Total Citations	634	504	840	719	515	537	576	438	419	267	329	348	257
Total Written Warnings	1232	1094	1307	1366	1211	1205	1481	1112	932	867	947	1059	476
Total Traffic Accidents	7	44	46	60	45	63	66	65	59	94	74	50	47
Property Damage	39	36	39	51	39	50	56	54	50	77	65	41	41
Personal Injury	7	8	7	9	6	13	10	11	9	16	9	9	6
Fatality	0	0	0	0	0	0	0	0	0	1	0	0	0
Hit and Run*	4	6	8	8	6	4	4	8	5	13	9	11	6

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

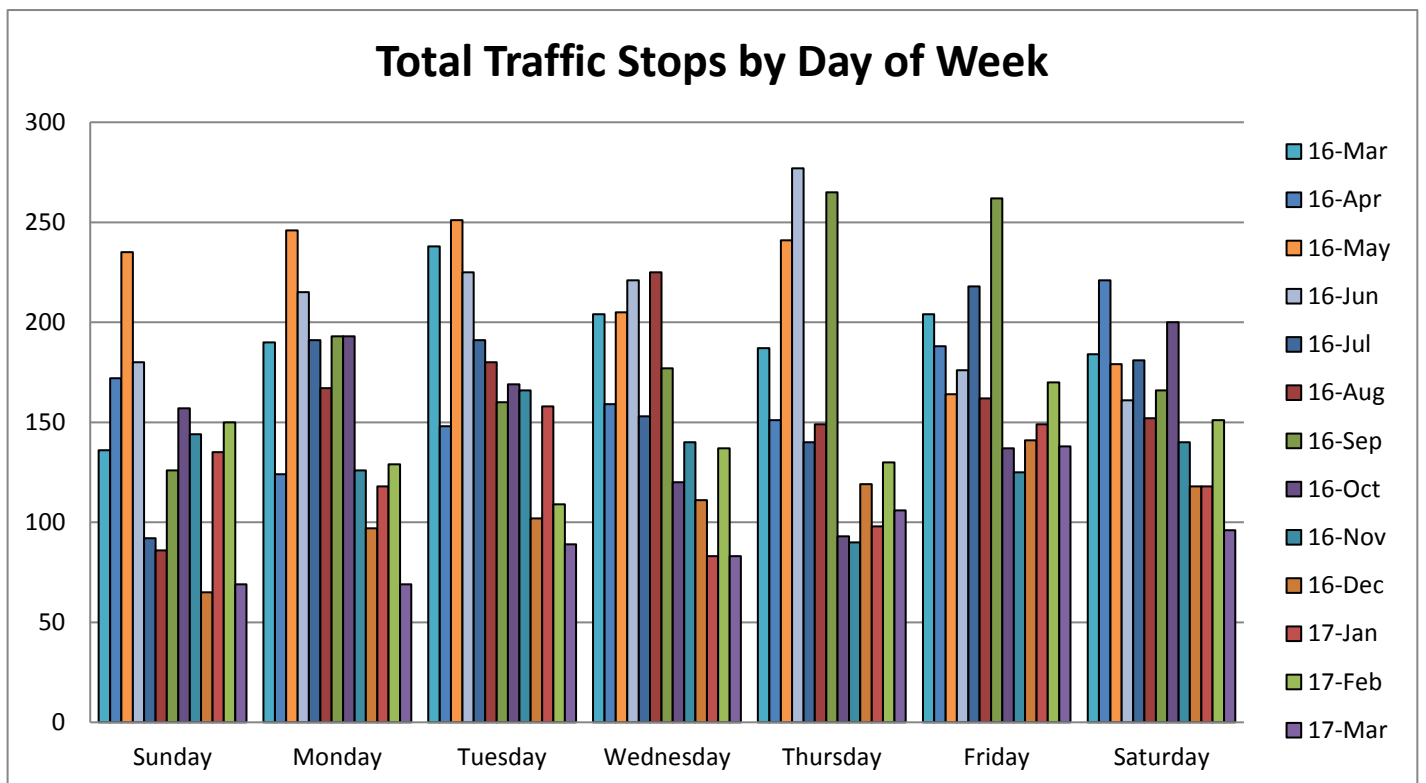


WESTFIELD POLICE DEPARTMENT

March 2017

Traffic Stops by Day of Week

Day:	16-Mar	16-Apr	16-May	16-Jun	16-Jul	16-Aug	16-Sep	16-Oct	16-Nov	16-Dec	17-Jan	17-Feb	17-Mar
Sunday	136	172	235	180	92	86	126	157	144	65	135	150	69
Monday	190	124	246	215	191	167	193	193	126	97	118	129	69
Tuesday	238	148	251	225	191	180	160	169	166	102	158	109	89
Wednesday	204	159	205	221	153	225	177	120	140	111	83	137	83
Thursday	187	151	241	277	140	149	265	93	90	119	98	130	106
Friday	204	188	164	176	218	162	262	137	125	141	149	170	138
Saturday	184	221	179	161	181	152	166	200	140	118	118	151	96
TOTAL	1343	1163	1521	1455	1166	1121	1349	1069	931	753	859	976	650



WESTFIELD POLICE DEPARTMENT

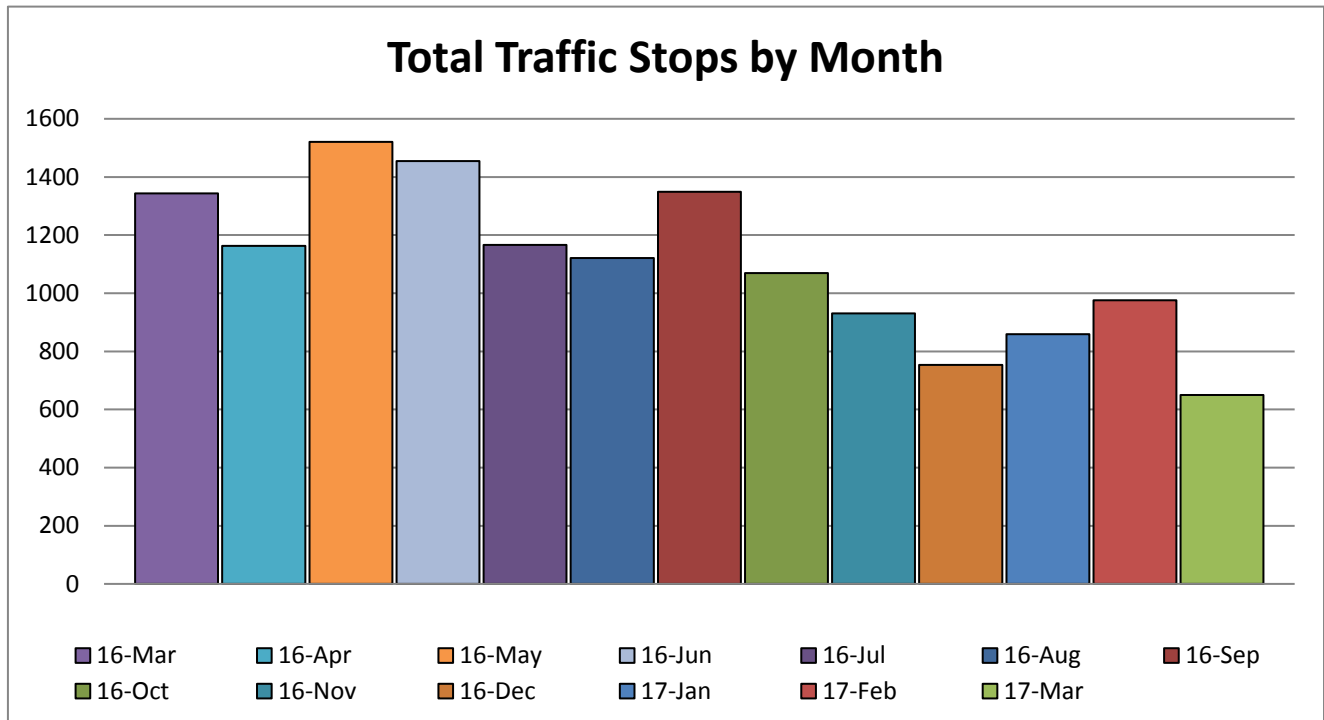
March 2017

Traffic Stops by Hour of the Day

Hour:	16-Mar	16-Apr	16-May	16-Jun	16-Jul	16-Aug	16-Sep	16-Oct	16-Nov	16-Dec	17-Jan	17-Feb	17-Mar
0	61	37	47	70	61	47	70	57	54	43	42	40	32
1	35	25	40	34	41	38	40	39	49	23	24	35	17
2	15	20	15	19	17	11	21	23	27	11	15	18	12
3	15	12	9	2	6	10	16	19	20	1	9	15	9
4	28	11	20	11	6	8	9	20	11	3	7	6	5
5	9	10	18	22	7	5	17	11	12	2	9	6	5
6	28	22	44	39	47	23	28	22	11	11	19	17	7
7	83	86	103	69	60	77	47	50	48	31	49	59	34
8	93	59	84	90	28	62	80	56	32	45	44	62	47
9	77	70	78	75	76	52	63	48	50	35	41	55	30
10	86	93	120	140	116	97	114	79	68	64	48	80	64
11	57	54	79	82	73	56	56	53	40	31	26	50	34
12	43	33	63	51	39	30	41	31	42	33	31	53	38
13	59	84	96	77	47	68	55	67	43	44	70	48	50
14	81	101	109	71	67	63	72	45	63	46	66	44	38
15	63	54	88	65	60	60	74	44	38	32	40	34	18
16	51	39	67	58	32	26	44	31	16	20	27	22	14
17	53	49	61	55	39	35	48	23	13	12	19	22	12
18	112	86	126	130	96	98	101	61	70	69	64	61	27
19	97	60	102	93	63	54	96	67	58	59	47	47	37
20	18	19	17	6	8	28	49	37	27	31	23	27	9
21	33	45	30	41	29	42	47	50	13	17	28	44	18
22	58	53	55	81	76	71	71	63	58	40	74	60	48
23	88	41	50	74	72	60	90	73	68	50	37	71	45
TOTAL	1343	1163	1521	1455	1166	1121	1349	1069	931	753	859	976	650

WESTFIELD POLICE DEPARTMENT

March 2017



**Westfield Police Department
Community Events
March 2017**

3/4/17 Carey Ridge Daisy Troop Department Tour – Days A

3/13/17 Girl Scout Tour and Presentation – Investigations

3/14/17 Coffee with a COP

3/18/17 Underground Railroad Health Fair – Officer Daniels and Deb Clement

3/21/17 Daisy Troop Department Tour – Nights B

**Westfield Police Department
Monthly Training Summary
March 2017**

3/2/17 Monthly K9

3/6-9/17 Advanced Disaster Management Simulator (ADMS) Instructor Training – Lt. Siara

3/6-10/17 IMPD Leadership Academy – Sgt. Grimes, Det. Marlow and Officer Larrison

3/6-9/17 Physical Tactics – Departmental Training

3/9/17 ESU Monthly

3/13-17/17 CIT Training – Lt. Siara, Lt. Gentry, Det. Howard, Lt. Lilly and Lt. Vickroy

3/13-15/17 International Conference of Police Chaplains Training Seminar – Chaplain Krupski

3/26-28/17 Lifesavers Conference – Lt. Vickroy and Sgt. Adams

3/27-31/17 Enhanced Incident Management / Unified Command – Lt. Gentry and Lt. Lilly

CONTRACT FOR GOODS AND SERVICES

This Contract for Goods and Services (“Vendor Contract”) is made and entered into as of the 26th day of April 2017, by and between City of Westfield (“Contracting Party”) and RejuvTec, Inc. (“Vendor”).

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

- A. **Basic Terms.** This Vendor Contract is on the following basic terms and conditions:
- (a) Goods and/or services provided by Vendor: (See Exhibit B attached hereto and made a part hereof).
 - (b) Location: Various locations throughout Westfield, Indiana 46074 (the “City Property”)
 - (c) Date by which the Services shall be completed: To start May 15, 2017 and complete by August 18, 2017 (the “Completion Date”).
 - (d) Purchase Price: Eighty-Four Thousand Five Hundred Forty-Three Dollars and 40/100, \$84,543.40 (see Proposal - Exhibit B).
 - (e) The Contracting Party provides two payment options to vendors for payment of approved invoiced amounts. They are as follows:
 - a. Option #1: Traditional – Invoices shall be payable within forty-five (45) days following Contracting Party’s receipt and approval of an invoice at the address specified below.
 - b. Option #2: Preferred – Invoices are payable within 7 days following Contracting Party’s receipt and approval of an invoice at the address specified below if vendor accepts MasterCard.
 - (f) The Contract Documents include:
 - a. This Goods and Services agreement
 - b. “Contract and Specifications for 2017 Asphalt Rejuvenating Project” dated April 11, 2017 inclusive of all sections and appendixes.

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

(g) Addresses:

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

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

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

If to Vendor:

RejuvTec, Inc.
1316 Deloss St.
Indianapolis, IN 46203

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

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

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

CONTRACT TERMS AND CONDITIONS

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

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

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

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

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

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

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

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

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

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

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

10. **REQUIRED INSURANCE AND INDEMNIFICATION:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25. **IRCA COMPLIANCE:** The Immigration Reform and Compliance Act of 1986 (IRCA) prohibits the employment of unauthorized aliens and requires all employers to: (1) not knowingly hire or continue to employ any person not authorized to work in the United States, (2) verify the employment eligibility of every new employee (whether the employee is a U.S. citizen or an alien), and (3) not engage in discrimination against qualified workers. The Vendor shall comply with IRCA and all other applicable federal, state and local immigration laws, regulations, Executive Orders (“other immigration laws”) and by executing this Agreement, warrants that it is in full compliance with all applicable immigration laws including, but not limited to, IRCA and has used E-Verify to pre-screen job applicants and re-verify current employees. Vendor shall not be required to verify the work eligibility status of all newly hired employees of the contractor through the E-Verify program if the E-Verify program no longer exists. Vendor shall immediately remove any employee known to be an unauthorized alien. Failure to comply with IRCA or other immigration laws shall constitute a material breach of this Agreement. The Vendor shall indemnify the City of Westfield against all damages, losses and expenses, including attorneys’ fees, incurred or sustained by the City of Westfield as a result of the Vendor’s failure to comply with IRCA or other immigration law. Vendor shall include this provision in any subcontracts or subordinate agreements it enters into with respect to this Agreement. Vendor shall also sign and have notarized the Affidavit of Employee Status (Attachment 2).

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

EXECUTED this _____ day of _____, 2017.

Contracting Party:

Vendor:

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

RejuvTec, Inc.
1316 Deloss St.
Indianapolis, IN 46203

Signature

Signature

Printed Name

Printed Name

Title

Title

Date

Date

EXHIBIT A

Project Rules

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

SITE ACCESS

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

LIMITED CITY OCUPANCY (If Applicable)

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

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

MATERIAL MANAGEMENT PLAN

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

CLEAN UP

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

WORK HOURS

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

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

PUBLIC ACCESS AND SAFETY

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

SITE DECORUM

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

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

PARKING

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

UTILITY COORDINATION

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

USE OF ROADWAYS AND PATHS

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

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

TRAFFIC CONTROL

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

CRANES & HOISTING

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

TEMPORARY SHORING AND BRACING

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

TEMPORARY BARRICADES

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

CONSTRUCTION SIGNAGE

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

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

TEMPORARY FACILITIES

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

RUBBER TIRED EQUIPMENT

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

REMOVAL OF TEMPORARY FACILITIES

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

VIOLATIONS

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

GENERAL SAFETY PRECAUTIONS

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

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

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

EXHIBIT B

See attached Proposal. The City has accepted the Base Bid only.

BID SHEET

The undersigned proposes to furnish material, labor, etc. according to the terms and conditions of the attached City of Westfield Specifications at the following unit prices, to wit:

BASE BID

73,516 SQUARE YARDS, MORE OR LESS, CONSTRUCTION SEALING WITH ASPHALT REJUVENATING AGENT FURNISHED AND APPLIED INCLUDING STREET SWEEPING.

RECLAMITE \$ 1.15 PER SQ. YD.
Product Name

CONTRACTOR CAN BEGIN WORK W.A DAYS AFTER WRITTEN NOTICE.

CONTRACTOR WILL COMPLETE WORK BY Aug 18, 2017 YES ☒ OR NO ☐

PRICE TERMS: NET 30

ALTERNATE BID

~~73,516 SQUARE YARDS, MORE OR LESS, CONSTRUCTION SEALING WITH ASPHALT REJUVENATING AGENT FURNISHED AND APPLIED NOT INCLUDING STREET SWEEPING.~~

~~RECLAMITE \$ 1.08 PER SQ. YD.
Product Name~~

~~CONTRACTOR CAN BEGIN WORK 7 DAYS AFTER WRITTEN NOTICE.~~

~~CONTRACTOR WILL COMPLETE WORK BY AUGUST 18, 2017 YES ☒ OR NO ☐~~

~~PRICE TERMS: NET 30~~

REJUVTEC INC.
BIDDER

REX HEDGES
AUTHORIZED AGENT

1316 DELOSS STREET
BUSINESS ADDRESS

INDIANAPOLIS, INDIANA 46203

317-241-9023
PHONE NUMBER

Attachment 1

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

Attachment 2

The Affidavit of Employee Status shall be signed and notarized.

AFFIDAVIT OF EMPLOYEE STATUS

Re: Project – 2017 Asphalt Rejuvenating Project

WHEREAS, the City of Westfield, Hamilton County, Indiana, hereinafter referred to as the “City” is in the process of construction work on the 2017 Asphalt Rejuvenating project, hereinafter referred to as the “Project”;

WHEREAS, RejuvTec, Inc., hereinafter referred to as the “Vendor”, is the general contractor of the above reference project; and

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

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

Signature:

Printed Name:

Signature:

Printed Name:

STATE OF INDIANA:

SS:

COUNTY OF _____ :

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

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

Signature

Printed Name

My Commission expires _____

I am a resident of _____ County.

CITY OF WESTFIELD BY:

, Director of Public Works

STATE OF INDIANA:

SS:

COUNTY OF HAMILTON:

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

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

Signature

Printed Name

My Commission expires _____

I am a resident of _____ County.

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

Attachment 3

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



Invoice Date:	
Invoice or App Number:	

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

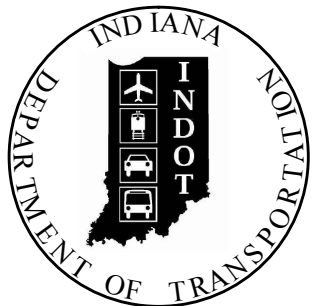
Westfield Project Name:	2017 Asphalt Rejuvenating
Westfield Project Number:	1710012
Westfield Project Manager:	Dustin Shoe
Westfield PO Number:	

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

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

PROJECT	DESIGNATION
1401707	1401707
CONTRACT	
R-38238	

INDIANA DEPARTMENT OF TRANSPORTATION



ROAD PLANS 186th ST. & SPRING MILL RD. PROJECT NO. 1401707 P.E. 1401707 CONST.

APPROVED BY
BOARD OF PUBLIC WORKS & SAFETY

Andy Cook DIRECTOR

Randy Graham MEMBER

Kate Snedeker MEMBER

ATTEST

Cindy Gossard CLERK-TREASURER

RECOMMENDED FOR APPROVAL

Phil A. Sundling, P.E. CITY ENGINEER/E.R.C.

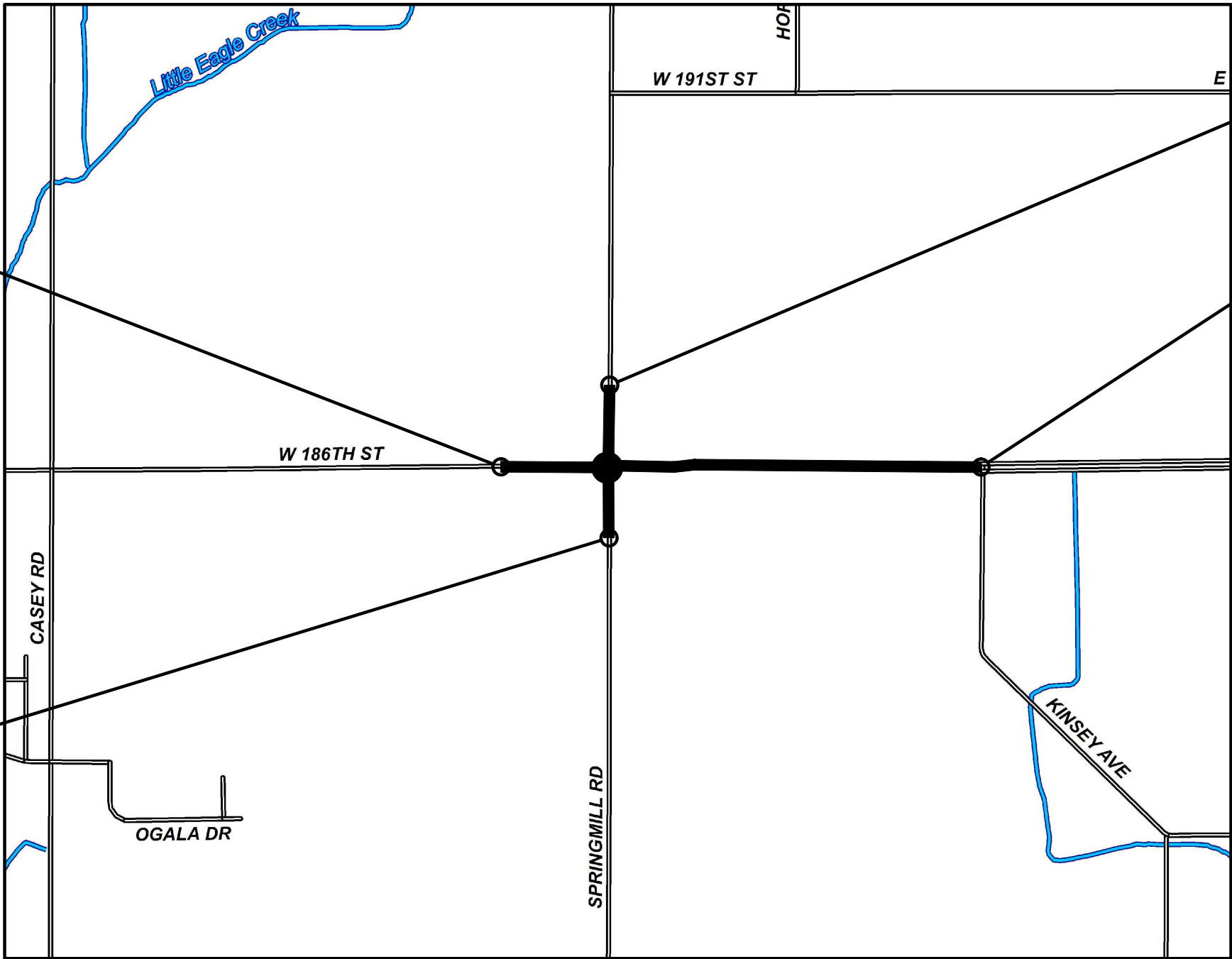
Intersection And Roadway Improvements At 186th Street And Spring Mill Road, Located Approximately 2.2 Miles Northwest Of Downtown Westfield, Indiana Within Sections 26, 27, 34 And 35, Township 19 North, Range 3 East, On The USGS Westfield Quadrangle In Washington Township. The Project Will Include A Total Of Approx. 0.82 Mile Of Road Work Including A Roundabout At The Intersection.

GROSS LENGTH: 0.92 Mi.
NET LENGTH: 0.92 Mi.

PLAN { LONG: 1" = 30'
TRANS: 1" = 30' } SCALES: PROFILE { HORIZ: 1" = 30'
VERT: 1" = 10' } MAX. GRADE = 1.81%

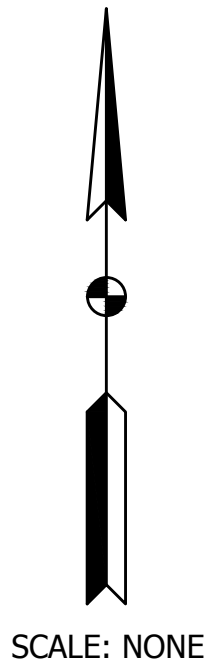
BEGIN PROJECT
P.O.T. Sta. 13+75.00 "PR-1" =
O.P.O.T. Sta. 13+74.99 "A",
1.99' Rt.

BEGIN CONSTRUCTION
P.O.T. Sta. 55+45.94 "PR-B-2" =
O.P.O.T. Sta. 55+45.60 "B",
12.61' Lt.



END CONSTRUCTION
P.O.T. Sta. 67+39.71 "B"

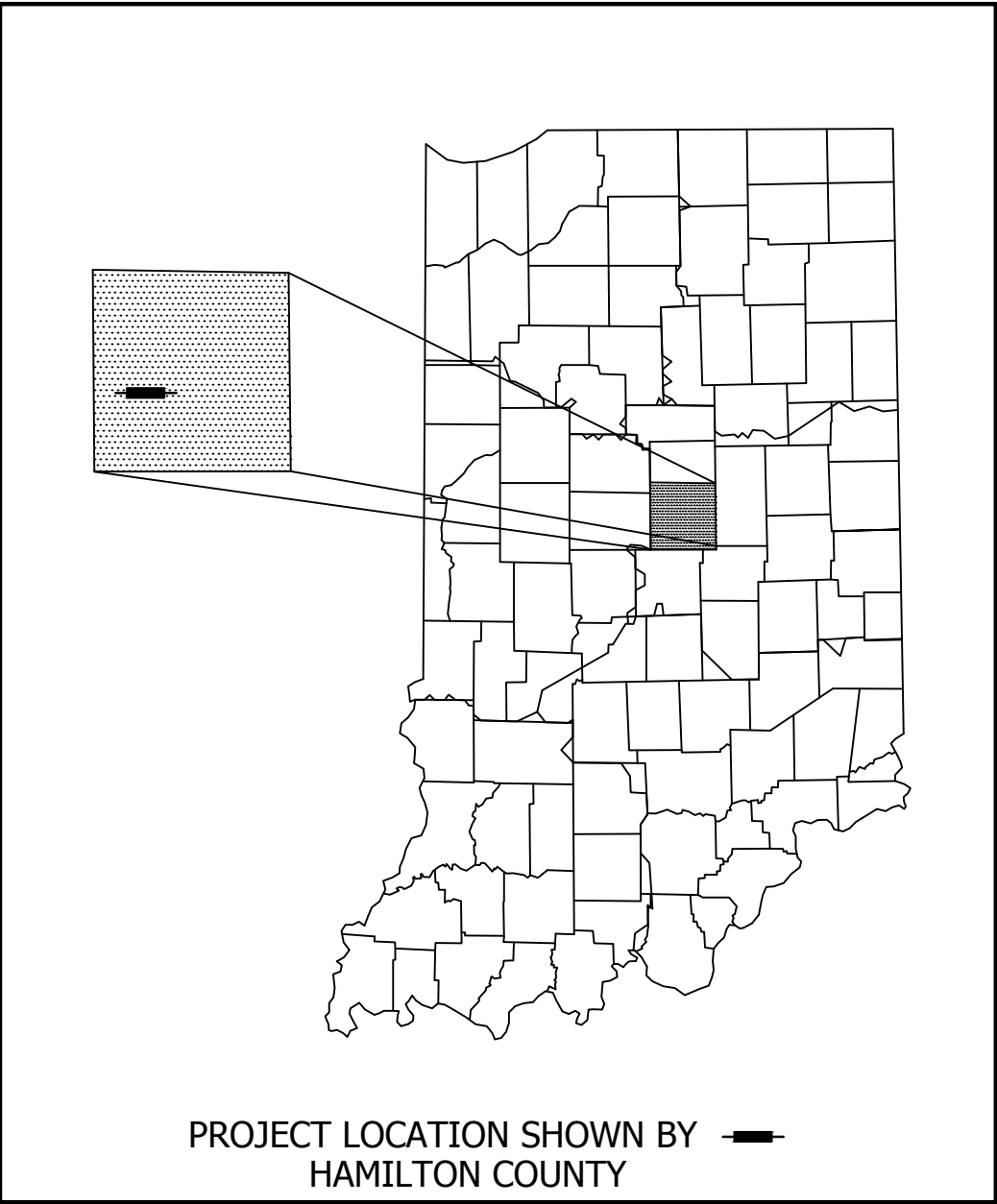
END PROJECT
P.O.T. Sta. 45+22.97 "A"



VICINITY MAP
HAMILTON COUNTY

TRAFFIC DATA	186th St. - Line "A"
A.A.D.T. (2015)	1850 V.P.D.
A.A.D.T. (2035)	2960 V.P.D.
D.H.V. (2035)	296 V.P.H.
DIRECTIONAL DISTRIBUTION	50 %
TRUCKS	5 % A.A.D.T.
	5 % D.H.V.
DESIGN DATA	
DESIGN SPEED	40 mph
PROJECT DESIGN CRITERIA	New Constr. 4R (Non-Freeway)
FUNCTIONAL CLASSIFICATION	Minor Arterial
RURAL/URBAN	Urban
TERRAIN	Level
ACCESS CONTROL	None

TRAFFIC DATA	Spring Mill Rd. - Line "B"
A.A.D.T. (2015)	4450 V.P.D.
A.A.D.T. (2035)	7120 V.P.D.
D.H.V. (2035)	712 V.P.H.
DIRECTIONAL DISTRIBUTION	50 %
TRUCKS	5 % A.A.D.T.
	5 % D.H.V.
DESIGN DATA	
DESIGN SPEED	40 mph
PROJECT DESIGN CRITERIA	New Constr. 4R (Non-Freeway)
FUNCTIONAL CLASSIFICATION	Principal Arterial
RURAL/URBAN	Urban
TERRAIN	Level
ACCESS CONTROL	None



LATITUDE: 40°03'25" N. LONGITUDE: 86°09'56" W.

FULL SIZE PLANS HAVE BEEN PREPARED USING STANDARD ENGINEERING SCALES.
REDUCED SIZED PLANS WILL NOT CONFORM TO STANDARD SCALES.

INDIANA DEPARTMENT OF TRANSPORTATION STANDARD
SPECIFICATIONS DATED 2016 TO BE USED WITH THESE PLANS.

PLANS PREPARED BY:	Butler Fairman and Seufert Inc.	(317)713-4615
		PHONE
CERTIFIED BY:		DATE
APPROVED FOR LETTING:	INDIANA DEPARTMENT OF TRANSPORTATION	DATE

	BRIDGE FILE
	DESIGNATION
	1401707
SURVEY BOOK	SHEET
	1 OF
CONTRACT	PROJECT
R-38238	1401707

BFS NO. 5768



April 26, 2017

Consent Agenda Items:

Performance Bond Acceptance

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

- Lantern Park, Section 2, Bond #59BSBHP7875, \$19,774.29, Erosion Control
- Metric Seals, \$8,167.00, Erosion Control (No bond number on document)
- Primrose School at Bridgewater, Bond #4895646, \$6,493.60, Erosion Control

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:

- Globe Asphalt, Bond #9223472, \$229,504.25, Trail Connections 2016 (No Maintenance Bond Required)
- Globe Asphalt, Bond #9230950, \$227,953.32, Monon-Midland Loop Trail (No Maintenance Bond Required)
- Harding Group, Bond #B1233513, \$1,713,737.14, 2016 Resurfacing Project (No Maintenance Bond Required)
- Globe Asphalt, Bond #9208187, \$568,254.62, Midland Trace Trail – Phase 4 (No Maintenance Bond Required)
- Baumgartner & Co., Bond #B1204242, 2015 Spring Resurfacing, \$499,428.43
- Barton Electric, Bond #GRIN20688B, \$1,537,000.00, Westfield Grand Park, Phase 4, Bid Package #5 (No Maintenance Bond Required)
- Bullseye Fence Design, #Q895270237, \$449,000.00, Westfield Grand Park, Phase 4, Bid Package #3 (No Maintenance Bond Required)
- Turf Solutions Group, #GRIN61135D, \$2,749,795.00, Westfield Grand Park, Phase 4, Bid Package #2 (No Maintenance Bond Required)
- Crider & Crider, #9080393, \$174,000.00, Westfield Grand Park, Phase 4, Bid Package #7 (No Maintenance Bond Required)
- Crider & Crider, #9080392, \$198,000.00, Westfield Grand Park, Phase 4, Bid Package #7 (No Maintenance Bond Required)
- Crider & Crider, #9080394, \$670,000.00, Westfield Grand Park, Phase 4, Bid Package #7 (No Maintenance Bond Required)
- Crider & Crider, #7626657, \$10,048,000.00, The Sports Campus at Westfield, Phase 1 (No Maintenance Bond Required)

Public Works

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

Board of Works

Andy Cook
Randy Graham
Kate Snedeker

Clerk Treasurer

Cindy J. Gossard

Public Works Department

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

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

- Mid America Golf & Landscape, Inc., #90074199, \$4,131,037.50, Westfield Grand Park, Phase 2, Bid Package 2 (No Maintenance Bond Required)
- Huston Electric, Inc., #B0344855, \$588,600.00, Westfield Grand Park, Phase 2, Bid Package 3 (No Maintenance Bond Required)
- Crider & Crider, #7631833, \$887,000.00, The Sports Campus at Westfield, Phase 2, BP #1 (No Maintenance Bond Required)
- West Coast Netting, Inc., #59BSBCU3326, \$661,000.00, Westfield Grand Park, Phase 5, Bid Package #5-9 (No Maintenance Bond Required)
- Myers Construction Management, Inc., #B1200928, \$7,328,000.00, Westfield Grand Park, Phase 5, Bid Package #5-1, 5-2, 5-3, 5-4 (No Maintenance Bond Required)
- Net Connection, LLC, #0014862, \$294,306.00, BP #6-1 Soccer Backstop Netting Systems (No Maintenance Bond Required)
- The Motz Group, #1018569, \$7,077,000.00, Westfield Grand Park, Phase 3, Bid Package #1 & 2 (No Maintenance Bond Required)
- Pulte Homes, Viking Meadows, Enclave 2, Bond #SUR0034631, \$222,343.00, Pavement improvements, stone base, asphalt & curbs
- Pulte Homes, Viking Meadows, Enclave 2, Bond #K09247099, \$336,463.00, Storm Infrastructure
- Pulte Homes, Viking Meadows, Enclave 2, Bond #SUR0034632, \$49,002.00, Public Walks

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:

- Viking Meadows, Enclave 2, #9248658, \$18,242.73, Roads & Paths
- Viking Meadows, Enclave 2, #B1240211, \$2,933.76, Curb & Gutter
- Viking Meadows, Enclave 2, #1112674, \$30,587.40, Storm Sewer & Sub Surface Drain
- Baumgartner & Co., #B1204242, 2015 Spring Resurfacing, \$48,690.15

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

Continuation Certificates

The Westfield Public Works Department is recommending that the Board of Public Works and Safety consider the following Continuation Certificate for acceptance by the requested developer:

- Metronet, Continuation Certificate Bond #CMS280922; April 2, 2017 to April 2, 2018

Letters of Credit

The Westfield Public Works Department is recommending that the Board of Public Works and Safety consider the following Letters of Credit for acceptance by the requested developer:

Bridgewater M-1 (The Moorings), LOC #18123517-00-000; Amendment #1, \$50,398.00



Board of Works

Andy Cook
Randy Graham
Kate Snedeker

Clerk Treasurer

Cindy J. Gossard

Public Works Department

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

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

Memorandum

To: Westfield Board of Public Works & Safety

Date: April 26, 2017

Re: Public Works Project Report

Memo to Board Members

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

Westfield Public Works Executive Summary Progress Report

Street Maintenance

Our current focus is on crack sealing and shoulder installation and repair. Additionally, US31 and SR32 have been swept, Park Street has been resurfaced and the spring resurfacing plan will launch in the coming weeks.

Park Maintenance

Installation of the new Quaker Park playground has begun and will finish in 3-4 weeks. Water fountains and restroom are de-winterized and opened. Additionally, the staff dug all the holes for the Arbor Day tree planting and are prepping for startup of the splash park.

Notable changes since 03/22/17

1. Mill Street Extension

Project is substantially complete with only punch list items remaining.

2. Westfield Boulevard Extension (West Access Rd.)

This is a new roadway project, which runs from Westfield Blvd., under US 31 and terminates at a new roundabout on 151st. The bid was awarded to Millennium Contractors. The crew is actively installing the underground detention systems.

3. Ditch Road Extension

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

4. 186th and Spring Mill Roundabout

This is a federally funded intersection improvement project located at the intersection of 186th and Spring Mill Rd. Project letting is anticipated for July with construction beginning in August.

5. Monon 7

This is a trail connection project, which extends the Monon trail from 191st to 216th. This is the final piece of trail, which will connect Westfield to Sheridan. Construction is expected to begin in fall of 2017.

Other Notable Projects

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

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

2. Westfield Boulevard Connector (South Poplar Extension)

- Des. No. awarded from INDOT
- Funding has been awarded by INDOT
- Project is currently under design and is on track to begin in summer of 2018.

3. Monon 5

This is the Monon grade separation project, which will construct the Monon bridge over SR 32. This is a federally funded project that is on track to begin construction in summer of 2018.

Public Works Department

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

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



INNOVATIVE IDEAS
EXCEPTIONAL DESIGN
UNMATCHED CLIENT SERVICE

April 5, 2017

Phil Sundling, P. E.
Westfield City Engineer
Department of Public Works & Safety
2706 E. 171st Street
Westfield, IN 46074

RE: Monon Trail, Phase 6 Construction Inspection R-36053
Proposed Supplemental Agreement No. 1
DLZ Project 1563-1117-70

Dear Mr. Sundling

DLZ Indiana, LLC (DLZ) is respectfully submitting for your approval of the attached supplemental agreement for inspection services on INDOT Contract R-36053, Monon Trail Phase 6.

DLZ's original estimated fee proposal in February of 2015 was based on an estimated Construction Cost of \$1,012,000.00 and an estimated completion date of April 15, 2016. The actual construction bid amount was \$1,497,846.87 with a contract completion date of May 30, 2016.

As you are aware, as of this date, the project has still not been finally accepted by INDOT or the City and the final punch list is currently being completed. There are two (2) possible change orders that could raise the final contract price by approximately \$2,500. Currently the total contract amount stands at \$1,443,182. Two approved time extension requests have brought the current calendar completion date to October 31, 2016.

DLZ has worked the minimum amount of time possible since the end of June 2016, while still inspecting and managing the project in such a way that we are still meeting INDOT requirements for inspection and supervision. To date we have spent an additional 113 hours of time for the Construction Observer Manager and 2 additional hours for a Civil Engineer III. We anticipate an additional 27 hours for the Construction Mgr. in order complete the final change orders and final construction record paperwork.

Chris Poland will continue to work with the City of Westfield to bring this contract to final completion and the additional 27 hours will be needed to resolve the remaining punch list work, final completion date documentation and acceptance with INDOT, resolution of remaining change orders, as well as completion of final contract estimate, material records and closeout.

The supplemental request totals \$13,100.00, bringing the total contract amount to \$139,600.00, which would still be well below the INDOT recommended 12 ½% of the construction cost. If you are agreeable to the proposed request, please sign and return the enclosed copy of the supplemental agreement.

If you have any questions, please do not hesitate to call.



INNOVATIVE IDEAS
EXCEPTIONAL DESIGN
UNMATCHED CLIENT SERVICE

Monon Trail, Phase 6 R-36053
Supplemental Agreement No. 1
Page 2 of 2

Sincerely,

Laurie D. Johnson, P.E.
Vice President

CC: B. Glaze, M. Leavitt, T. Stoffl, H. Ghumman, file

SUPPLEMENTAL AGREEMENT NO. 1

This Supplemental Agreement No. 1 is made and entered into this ____ day of _____, 2017, by and between the CITY OF WESTFIELD, INDIANA, acting by and through the BOARD OF PUBLIC WORKS and SAFETY, hereinafter referred to as the "LPA", and DLZ INDIANA, LLC, 157 EAST MARYLAND STREET, INDIANAPOLIS ; INDIANA 46204, hereinafter referred to as the "CONSULTANT".

WITNESSETH

WHEREAS, the LPA and CONSULTANT did, on March 25, 2015, enter into an agreement for Construction Observation services for the construction of project R-36053, the construction of a multi-purpose trail from 181st Street to the Monon Trail Elementary School (Des No. 1173079) and;

WHEREAS, the CONSULTANT has provided additional construction observation services needed on the project due to an extension of contract time due to a Citizens Energy Utility conflict along 181st Street and the final construction amount exceeding the original estimated cost.

NOW THEREFORE, the LPA and the CONSULTANT desire to amend the above referenced Construction Inspection Contract as follows:

I. Revise Section III TERM of the LPA – Consulting Contract to read as follows:

The term of this Contract shall be from the date of the last signature affixed to this Contract to the completion of the construction contract which is estimated to be April 30, 2017.

II. Revise Section IV of COMPENSATION of the LPA – Consulting Contract to read as follows:

1. The LPA shall pay the CONSULTANT for the Services performed under this Contract as set forth in Appendix "D" which is herein attached to and made an integral part of this Contract. The maximum amount payable under this Contract shall not exceed \$ 139,600.

III. Add Exhibit "1" as follows:

EXHIBIT 1-ESTIMATED COST FOR ENGINEERING SERVICES 2015-2017			
NAME/CLASSIFICATION	HOURLY RATE	ACTUAL HOURS	COST
Division Manager (2015-16)	\$176.39	10	\$1,763.90
Construction Observer/Mgr.(2015-17)	\$91.30	1434	\$130,924.20
Civil Engineer III (2016)	\$108.41	5	\$542.05
Total DLZ Labor Cost for 2015-2017			\$133,230.15
Subcontractor (Shrewsberry)			\$6,325.00
Total Cost			\$139,555.15
FINAL COSTS FOR 2015-2017 ROUNDED			\$139,600.00

IV. Revise APPENDIX "D" of the LPA – Consulting Contract to read as follows:

1. The CONSULTANT shall receive as payment for the work performed under this Contract the total amount not to exceed **\$139,600.00**
.....

This contract amendment increases the current fee of \$126,500.00 **by \$13,100.00** to **\$139,600.00**. All other terms and conditions as set forth in the original contract dated March 25, 2015 shall remain in full force and effect, except as herein modified.

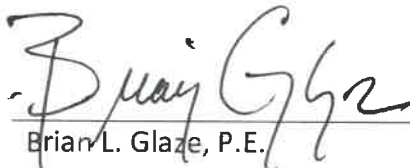
The undersigned attests, subject to the penalties for perjury, that he is the contract party, or that he is the representative, agent, member or officer of the CONSULTANT that he has not, nor has any other member, employee, representative, agent or officer of the firm, company, corporation or partnership represented by him, directly or indirectly, to the best of his knowledge, entered into or offered to enter into any combination, collusion of agreement to receive or pay, and that he has not received or paid, any sum of money or other consideration for the execution of this Contract other than that which appears upon the face of the Contract.

(The remainder of this page intentionally left blank)

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

ENGINEER:

DLZ INDIANA, LLC



Brian L. Glaze, P.E.
President

ATTEST:



Laurie D. Johnson, R.E.
Vice President

OWNER:

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

By: _____
Kate Snedeker

By: _____
Randell Graham

By: _____
J. Andrew Cook

ATTEST: _____

ACKNOWLEDGMENT

STATE OF INDIANA

COUNTY OF MARION

SS:

Before me, the undersigned Notary Public in and for said County personally appeared Brian L. Glaze, P.E., President and Laurie D. Johnson, P.E., Vice President of DLZ Indiana, LLC, 157 E. Maryland St., Indianapolis, IN 46204, and each acknowledged the execution of the foregoing agreement on this 5th day of April, 2017 and each acknowledged and stated that he is the party authorized by the said firm to execute the foregoing agreement.

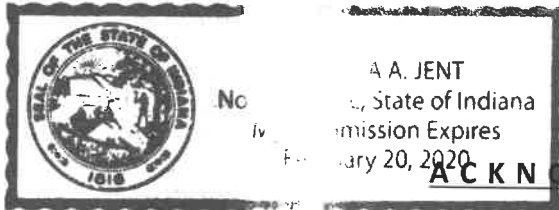
Witness my hand and seal the said last named date.

My Commission Expires:

2-20-2020

Melissa Jent
Notary Public

County of Residence: Marion



ACKNOWLEDGMENT

STATE OF INDIANA

COUNTY OF _____

SS:

Before me, the undersigned Notary Public in and for said City personally appeared Kate Snedecker, Randell Graham and J. Andrew Cook, of the Board of Public Works and Safety and acknowledged the execution of the foregoing agreement on this _____ day of _____, 2017.

Witness my hand and seal the said last named date.

My Commission Expires:

Notary Public

County of Residence:

City of Westfield – Hamilton County CDBG Contract
Sleepy Hollow Sidewalk Improvements

City of Westfield Board of Public Works and Safety
2706 E. 171st Street
Westfield, IN 46074

Signature
Andy Cook

Date: _____

Signature
Randy Graham

Date: _____

Signature
Kate Snedeker

Date: _____

Attest:

Signature
Cindy Gossard, Clerk Treasurer

Date: _____



Public Works

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

Board of Works

Andy Cook
Randy Graham
Kate Snedeker

Clerk Treasurer

Cindy J. Gossard

Public Works Department

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

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

To: Westfield Board of Public Works & Safety

Date: April 26, 2017

Re: Action Item - Signing Authority
Union Street Demo Contract

The City of Westfield Public Works Department is requesting that the Board of Public Works and Safety consider granting Jeremy Lollar, Director of Public Works, signing authority for the Contract for Goods and Services with Renascent, Inc. in conjunction with the demolition of 5 residential properties along Union Street for the Grand Junction Plaza project. The contract shall total no more than \$51,175.00.

Kate Snedeker

Randy Graham

J. Andrew Cook

REQUEST FOR QUOTE

CITY OF WESTFIELD, INDIANA

Junction Demolition – Phase II

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

The Public Works Department of the City of Westfield, Indiana, is requesting a quote for the attached proposal for the **JUNCTION DEMOLITION – PHASE II** Project.

This project generally consists of demolition and restoration of five (5) residential properties along Union Street south of SR 32 in downtown Westfield. The work will consist of razing and removing the home and any infrastructure on the property including but not limited to driveways, sidewalks, patios, trees, fences, firepits, septic systems, propane tanks, water wells, sheds, and garages. Asbestos testing will be required for IDEM notification. Westfield will handle all utility stop-services and demo notices. Note on the property at 211 Union Street, all storm structures and castings on the north side of the home shall remain in place. Additionally, any sanitary sewer infrastructure shall not be disturbed. I recommend prior to bidding that contractors field visit the site to ensure all efforts reflected in their bid. Any effort not itemized in the proposal below shall be included in the cost of other items. Please note that the existing bridge sidewalk in Westfield R/W shall not be damaged during these operations. Westfield recognizes that restoration in the summer months may be difficult and unattainable. As such, the sites shall be graded and rock raked. Silt fence shall be placed along the brick sidewalk along all property frontages at the completion of the clearing efforts. No seeding nor blanketing will be required.

Rough times, as follows: 211 Union Street will be highest priority. This property must be free and clear by July 1st. Additionally, 217 Union Street demo cannot begin until July 1st as the property's tenant will be in the home until June 30th at the latest. The remaining homes shall be completed by August 1st, 2017 and have no late-start requirements.

This project shall be completed no later than August 1, 2017, or liquidated damages shall be assessed at \$250 per day. The project will be awarded to the lowest and most responsible Contractor by the Owner. A notice to proceed may be issued as early as May 1, 2017.

The undersigned proposes to furnish all work for the construction of the **JUNCTION DEMOLITION – PHASE II** Project, including all labor, materials, supplies, equipment and all necessary incidentals to complete the work for the following unit prices, to wit:

Quotes can sent via email or hard copies to the address noted above, with attention to Phil Sundling. Quotes are due Friday, April 21, 2017 by 2:00 P.M. Eastern Standard Time. Any quote received after this time may be rejected.

Remainder of page left intentionally blank.

JUNCTION DEMOLITION – PHASE II
City of Westfield, Indiana

ITEMIZED PROPOSAL
(SEE BREAKDOWN ON NEXT PAGE FOR FURTHER INFORMATION)

ID	DESCRIPTION	UNIT	QTY	UNIT PRICE	SUBTOTAL
1	211 Union Street	LS	1	\$	\$ 8,125.00
2	217 Union Street	LS	1	\$	\$ 11,150.00
3	221 Union Street	LS	1	\$	\$ 7,900.00
4	229 Union Street	LS	1	\$	\$ 10,250.00
5	301 Union Street	LS	1	\$	\$ 13,750.00
TOTAL =					\$ 51,175.00

Quote Amount in words for JUNCTION DEMOLITION – PHASE II Project:

Fifty One Thousand One Hundred Seventy Five Dollars and no /100

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

It is hereby agreed that this proposal shall remain in full force and effect and may not be withdrawn for a period of 60 days from the date of receiving proposals by the City of Westfield, Indiana.

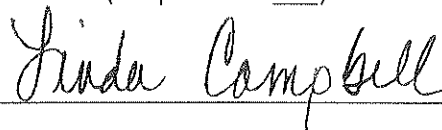
Respectfully submitted,

RENASCENT, INC.

Contractor

(Individual___) (Partnership___)
or (Corporation X)

By



Title President

Dated:

Address 935 W Troy Ave

April 21, 20 17

Indianapolis, IN 46225

JUNCTION DEMOLITION – PHASE II
City of Westfield, Indiana

**WESTFIELD BOARD OF PUBLIC WORKS AND SAFETY
RESOLUTION NO. 17-119**

**A RESOLUTION OF THE BOARD OF PUBLIC WORKS AND SAFETY OF THE
CITY OF WESTFIELD, TO ESTABLISH AN UNDERGROUND AND BURIED
UTILITY DISTRICT**

WHEREAS, The City of Westfield, (“City”) is a duly formed municipal corporation within the State of Indiana, governed by its duly elected Mayor and Common Council (“Council”); and,

WHEREAS, the City of Westfield (“City”), pursuant to I.C. 36-9-2-7, may regulate the use of public ways; and,

WHEREAS, the Westfield Board of Public Works and Safety (“Board”) was created by and through I.C. 36-4-9-5 allowing certain duties and responsibilities to be delegated by law and by practice to the Board including administering the public utilities and regulate the City’s rights-of-way; and,

WHEREAS, public necessity, health and safety now require that all utilities located within the City’s ROW shall be placed underground or buried; and,

WHEREAS, the City, by and through the BPW, now finds that it is in the best interests of the public health, safety, and general welfare of its citizens to prohibit the erection of all poles, overhead lines, and associated overhead structures used or useful in supplying electric, communication or similar and associated services within the City’s ROW; and,

WHEREAS, to further the aforementioned public necessity, the BPW now hereby establishes an Underground and Buried Utilities District (“Area”) and designates the Area to be in effect throughout all ROW within the corporate boundaries of the City; and,

WHEREAS, to further the aforementioned public necessity, and to comply with the provisions required under I.C. 8-1-32.3-15, as added by P.L. 145-2015, Section 3, the Board now hereby establishes an Underground and Buried Utilities District (“Area”) and designates the Area to be in effect throughout all ROW within the corporate boundaries of the City.

NOW, THEREFORE, BE IT RESOLVED by the Westfield Board of Public Works and Safety meeting in session finds as follows:

Section 1. The foregoing Recitals are fully incorporated herein by this reference.

Section 2. The City hereby establishes an Underground and Buried Utilities District (“Area”) to be in effect and to apply throughout the City’s ROW, and is hereinafter defined as follows:

- a. In all areas of the City where no overhead or above ground utilities, utility facilities, overhead lines, or associated overhead structures used or useful in supplying electric, communication or similar and associated services currently exist;
- b. In all areas of the City where planned road projects, redevelopment areas and/or economic development areas provide for and require underground buried utilities and utility facilities, including but not limited to electric, communication or similar and associated services; and
- c. All other areas of ROW or proposed ROW throughout the City, whether or not above ground utilities or utility facilities currently exist.

Section 3. From and after the effective date of this Resolution, no person, corporation, or utility shall erect or construct within the City’s ROW, any pole, overhead line, or associated overhead structure used or useful in supplying electric, communication or similar associated services.

Section 4. Unless otherwise expressly authorized by the City’s BPW, all utilities located within the City’s ROW shall be placed underground and/or buried.

Section 5. All existing overhead poles, wires, and/or utility transmission lines may remain within the City’s ROW, but may not be replaced or relocated without prior written authorization of the BPW.

Section 6. If any portion of this Resolution is for any reason declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Resolution so long as enforcement of same can be given the same effect.

Section 7. This Resolution shall be in full force and effect from and after the date of its adoption.

ALL OF WHICH IS RESOLVED THIS _____ DAY OF _____ 2017.

WESTFIELD BOARD OF PUBLIC WORKS AND SAFETY

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

ATTEST:

Cindy Gossard, Clerk-Treasurer

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