



CITY OF WESTFIELD, IN
Board of Public Works Meeting Agenda_01_27_2016

Wednesday, January 27, 2016 at 01:00 PM

BOARD OR COMMISSION: Board of Public Works and Safety

MEETING DATE: Wednesday, January 27, 2016 at 01:00 PM

MEETING PLACE: Westfield Public Works- Large Conference Room

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

AGENDA ITEMS

Meeting Minutes Consideration for Approval

Action Item #1: Minutes - December 16, 2015

Documents: [December 16 Meeting Minutes](#)

Bid Approval

Construction Standards & Specifications Changes

Change Orders

Contracts/Leases

Action Item #2: HSIP Shrewsberry - LPA Contract

Documents: [Shrewsberry Contract](#)

Action Item #3: A&F Consulting Contract

Documents: [A&F Contract](#)

Agreements and/or Memorandum of Understanding (MOU)

Consent Agenda - Action Item #4

Clerk Treasurer - Conflict of Interest

Approval to Hire One Additional Police Officer

Bond Information

Documents: [Bond Information](#)

Department Reports

Fire

Documents: [WFD December Report](#)

Police

Documents: [WPD December Report](#)

Public Works

Documents: [DPW Report](#)

Westfield Police Department

Monthly Performance Measures Report



Board of Public Works & Safety

December 2015

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WESTFIELD POLICE DEPARTMENT

December 2015

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

Abduction/ Kidnapping	0
Abuse/ Abandonment/Neglect	0
Admin- K-9 Detail	0
Admin- Log Information	0
Admin-Public Relations	6
Admin- Special Detail	1
Admin- Test Calls	0
Admin- Tow Release	0
Admin- Warning Correction	0
Alarm- Bank	1
Alarm- Business	72
Alarm- Residence	67
Animal- Complaints	22
Assault- Battery	7
Assault- Sexual	0
Assist- Fire Incident	3
Assist- Medical Incident	4
Assist- Other Agencies	33
Bomb Found/ Suspicious Pkg	2
Burglary/ Home Invasion	4
Damage/ Vandalism/ Mischief	6
Deceased- All Others	0
Disturbance- Fireworks Cmplt	0
Disturbance- Loud Party	0
Disturbance- Noise Complaint	5
Disturbance	31
Disturbance - Verbal	0
Drugs- Complaint	5
Fraud- Criminal Deception	0
Fraud- Forgery	16
Fraud- Prescription	0
Harassment/ Stalking/ Threat	23
Indecency / Lewdness	0
Intoxicated- Possible DUI	10
Mental/ Emotional	6
Miscellaneous	10
Person-Missing	1

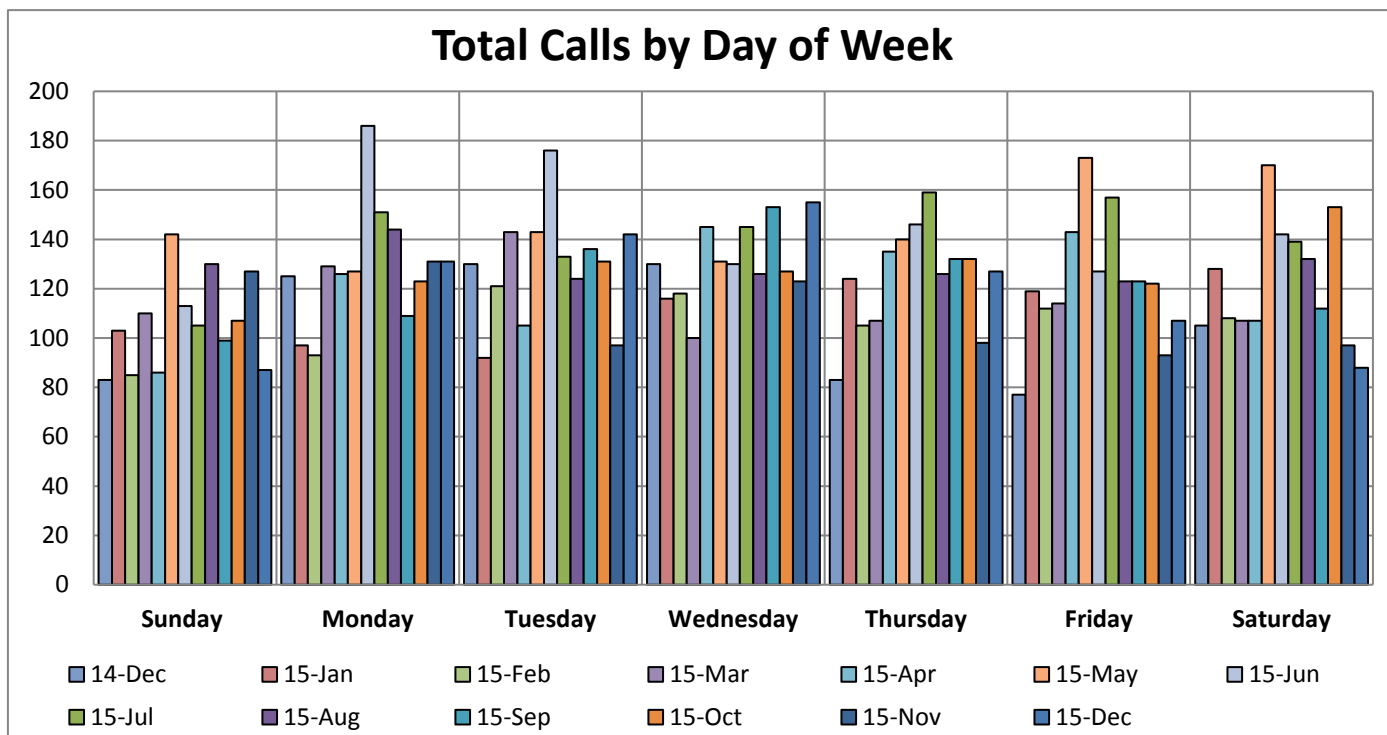
Person- Runaway	1
Robbery-Carjacking	0
Service Call- 9-1-1 Hang Up	17
Service Call- Damage to Property	8
Service Call- Found Property	5
Service Call- Keep the Peace	39
Service Call- Lost Property	4
Service Call- Notification	2
Service Call- Security Check	6
Service Call- Vehicle Lockout	56
Service Call- Vin Check	14
Service Call- Welfare Check	34
Suicidal- Attempted	0
Suicidal- Persons Threatening	1
Supplemental- Case Follow Up	34
Suspicious- Noises	6
Suspicious- Open Door/ Window	3
Suspicious- Person/Prowler	32
Suspicious- Solicitor	5
Suspicious- Vehicle	26
Theft- From a Vehicle	7
Theft- Of a Vehicle	4
Theft- Others	26
Theft- Shoplifting	3
Trespassing/ Unwanted Person	7
Trfc Complaint - Abandoned Veh	5
Trfc Complaint- Driving Issues	38
Trfc Complaint- Parking Issues	9
Trfc Hazard- Debris in Road	7
Trfc Hazard- Disabled Vehicle	21
Trfc Hazard- Trfc Signal Out	3
Trnsprtn Acdnt- MV Hit & Run	2
Trnsprtn Acdnt- MV Prop Damg	48
Trnsprtn Acdnt- MV Prsnl Inj	16
Wanted- Warrant Service	4
Weapons- Person Carrying	0
Weapons- Shot Fired	5

WESTFIELD POLICE DEPARTMENT

December 2015

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

DAY	14-Dec	15-Jan	15-Feb	15-Mar	15-Apr	15-May	15-Jun	15-Jul	15-Aug	15-Sep	15-Oct	15-Nov	15-Dec
Sunday	83	103	85	110	86	142	113	105	130	99	107	127	87
Monday	125	97	93	129	126	127	186	151	144	109	123	131	131
Tuesday	130	92	121	143	105	143	176	133	124	136	131	97	142
Wednesday	130	116	118	100	145	131	130	145	126	153	127	123	155
Thursday	83	124	105	107	135	140	146	159	126	132	132	98	127
Friday	77	119	112	114	143	173	127	157	123	123	122	93	107
Saturday	105	128	108	107	107	170	142	139	132	112	153	97	88
TOTAL	733	779	742	810	847	1026	1020	989	905	864	895	766	837



WESTFIELD POLICE DEPARTMENT

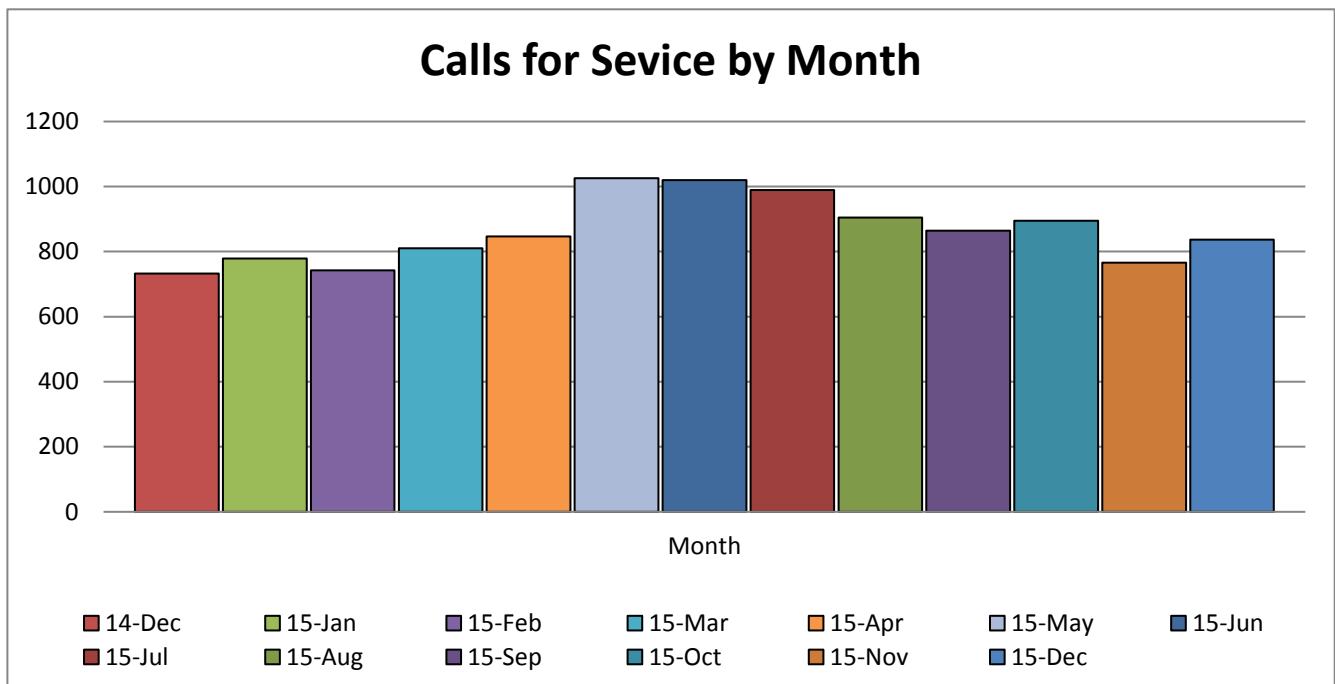
December 2015

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

HOURL	14-Dec	15-Jan	15-Feb	15-Mar	15-Apr	15-May	15-Jun	15-Jul	15-Aug	15-Sep	15-Oct	15-Nov	15-Dec
0	19	24	25	16	20	28	20	22	29	19	19	30	25
1	19	15	9	7	21	18	20	21	19	16	14	10	17
2	14	19	14	11	13	17	17	14	13	9	12	9	12
3	9	6	12	10	7	12	15	8	13	6	10	9	15
4	6	12	8	5	8	13	14	10	9	7	12	13	12
5	6	9	9	12	15	14	16	10	10	6	8	6	13
6	12	10	15	14	7	14	9	15	14	15	16	8	18
7	20	22	24	33	23	42	24	11	30	25	28	25	28
8	30	26	32	32	41	38	35	29	36	37	33	25	32
9	38	36	37	41	39	51	50	27	51	41	41	31	41
10	42	43	37	31	38	58	54	48	43	53	40	35	49
11	38	38	38	46	46	55	55	56	57	62	48	41	49
12	50	43	45	39	43	48	58	71	52	52	53	48	57
13	35	41	41	43	48	68	63	80	54	57	51	56	37
14	41	43	45	55	52	62	48	57	43	51	65	44	48
15	58	53	61	55	46	61	60	52	57	71	66	62	56
16	47	49	43	59	65	60	69	64	56	56	69	43	56
17	48	61	50	53	62	70	66	64	62	48	56	50	53
18	50	41	52	45	51	56	69	69	60	60	56	60	48
19	49	49	42	43	52	54	50	61	53	39	52	41	50
20	24	39	30	43	43	60	77	47	37	37	44	29	32
21	44	38	25	55	53	47	62	64	47	44	32	38	38
22	19	35	29	31	28	45	39	53	37	27	40	23	33
23	15	27	19	31	26	35	30	36	23	26	30	30	18
TOTAL	733	779	742	810	847	1026	1020	989	905	864	895	766	837

WESTFIELD POLICE DEPARTMENT

December 2015



WESTFIELD POLICE DEPARTMENT

December 2015

UCR OFFENSES

OFFENSE	14-Dec	15-Jan	15-Feb	15-Mar	15-Apr	15-May	15-Jun	15-Jul	15-Aug	15-Sep	15-Oct	15-Nov	15-Dec
Arson	0	0	0	0	0	0	0	0	1	0	0	0	0
Homicide	0	0	0	0	0	0	0	0	0	0	0	0	0
Rape	0	1	0	0	0	1	1	0	0	0	0	0	0
Robbery	0	0	2	0	0	0	0	0	1	0	0	0	0
Battery - Aggravated	2	2	1	0	2	3	1	3	2	6	0	1	5
Battery - Simple	7	14	6	9	3	18	11	11	20	13	14	14	19
Burglary	1	2	0	2	1	6	1	2	5	3	3	3	2
Theft	33	34	27	25	38	29	31	39	24	42	24	25	29
Motor Vehicle Theft	0	1	1	0	0	1	2	1	2	1	2	2	1
TOTAL	43	54	37	36	44	58	47	56	55	65	43	45	56

WESTFIELD POLICE DEPARTMENT

December 2015

NON UCR OFFENSES (PART II)

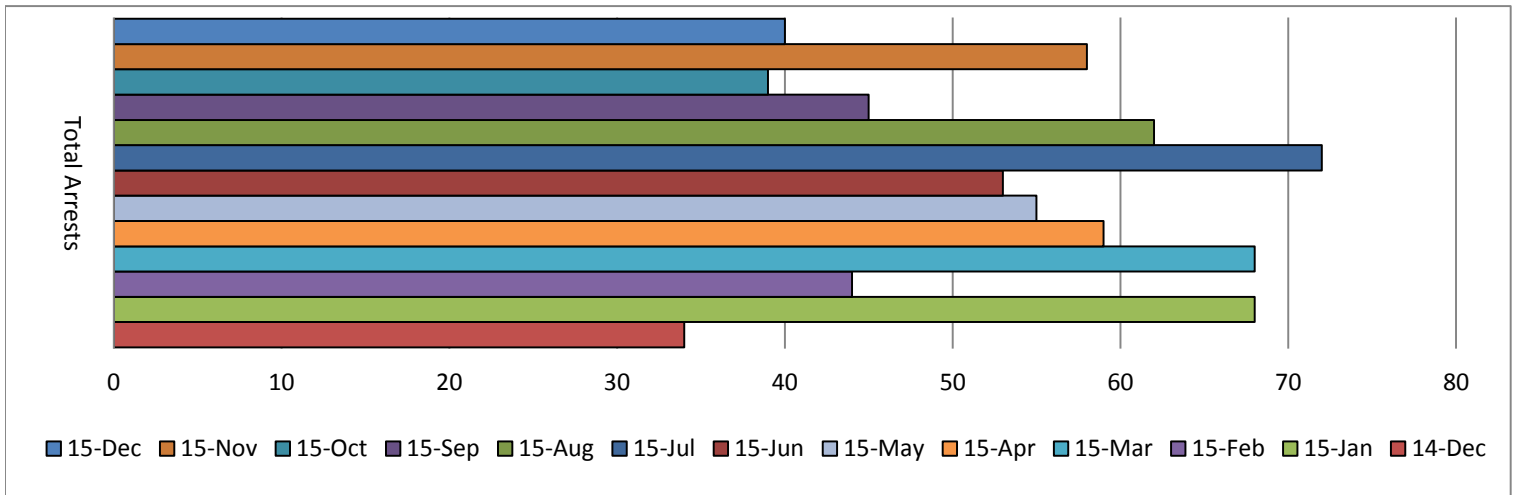
ANIMALS/ INCLUDING DOG BITES	2
ASSIST OTHER AGENCY	4
CHILD ABUSE / NEGLECT REPORTED	9
CHILD CUSTODY DISPUTE	1
CIVIL DISPUTE	7
CRIMINAL MISCHIEF/VANDALISM	8
DAMAGED PROPERTY	7
DEATHS OTHER THAN HOMICIDE/SUICIDE	1
DISTURBANCE/ARGUMENTS/FIGHTS	18
DOORS / WINDOWS UNLOCKED OR OPEN	0
DRIVING WHILE SUSPENDED	9
DRUG ABUSE VIOLATIONS	11
FIRES / UNDETERMINED	1
FRAUD	11
HARASSMENT	8
IDENTITY THEFT	1
JUVENILE COMPLAINT	1

LEAVING THE SCENE	4
LIQUOR LAW VIOLATIONS	1
MISSING PERSON / LOST	0
NON-MOVING TRAFFIC VIOLATIONS	8
OPERATING WHILE INTOXICATED	6
PROPERTY FOUND	6
PROPERTY LOST	0
RECKLESS DRIVING	1
RUNAWAY	0
SUICIDE/ATTEMPTS/THREATS OF	3
SUSPICIOUS INCIDENT/PERSON	7
THREATS/INTIMIDATION	5
TRAFFIC VIOLATIONS	6
TRESPASSING	3
WARRANT ARREST	1
WEAPON VIOLATION	0
WELFARE CHECK	5

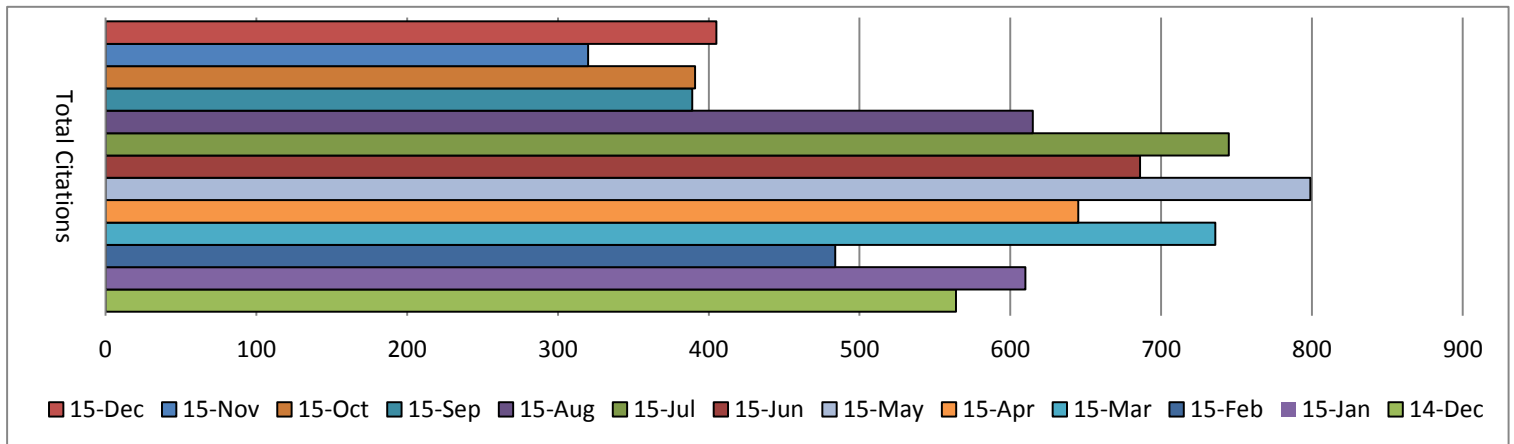
WESTFIELD POLICE DEPARTMENT

December 2015

Arrest Reports Taken	14-Dec	15-Jan	15-Feb	15-Mar	15-Apr	15-May	15-Jun	15-Jul	15-Aug	15-Sep	15-Oct	15-Nov	15-Dec
Alcohol/ Drug Related	11	23	14	31	14	23	24	36	24	20	21	18	13
Felony Charges	4	18	6	6	15	45	11	17	12	11	5	8	7
Misdemeanor Charges	42	79	46	80	65	67	73	96	66	50	53	65	52
Traffic Arrest Charges	33	57	25	35	42	10	46	49	37	39	20	33	33
Total Arrests	34	68	44	68	59	55	53	72	62	45	39	58	40



Traffic	14-Dec	15-Jan	15-Feb	15-Mar	15-Apr	15-May	15-Jun	15-Jul	15-Aug	15-Sep	15-Oct	15-Nov	15-Dec
Total Citations	564	610	484	736	645	799	686	745	615	389	391	320	405
Total Written Warnings	981	968	911	1061	883	958	773	835	793	693	706	820	927
Total Traffic Accidents	54	53	51	40	41	52	56	58	55	54	49	54	52
<i>Hit and Run</i>	5	6	1	5	2	4	5	6	4	6	3	5	3
<i>Personal Injury</i>	5	5	5	4	7	6	10	10	9	13	6	4	14
<i>*Fatality</i>	0	0	0	0	0	0	0	0	0	0	0	0	0
<i>Property Damage</i>	44	42	45	31	32	42	41	42	42	35	40	45	35

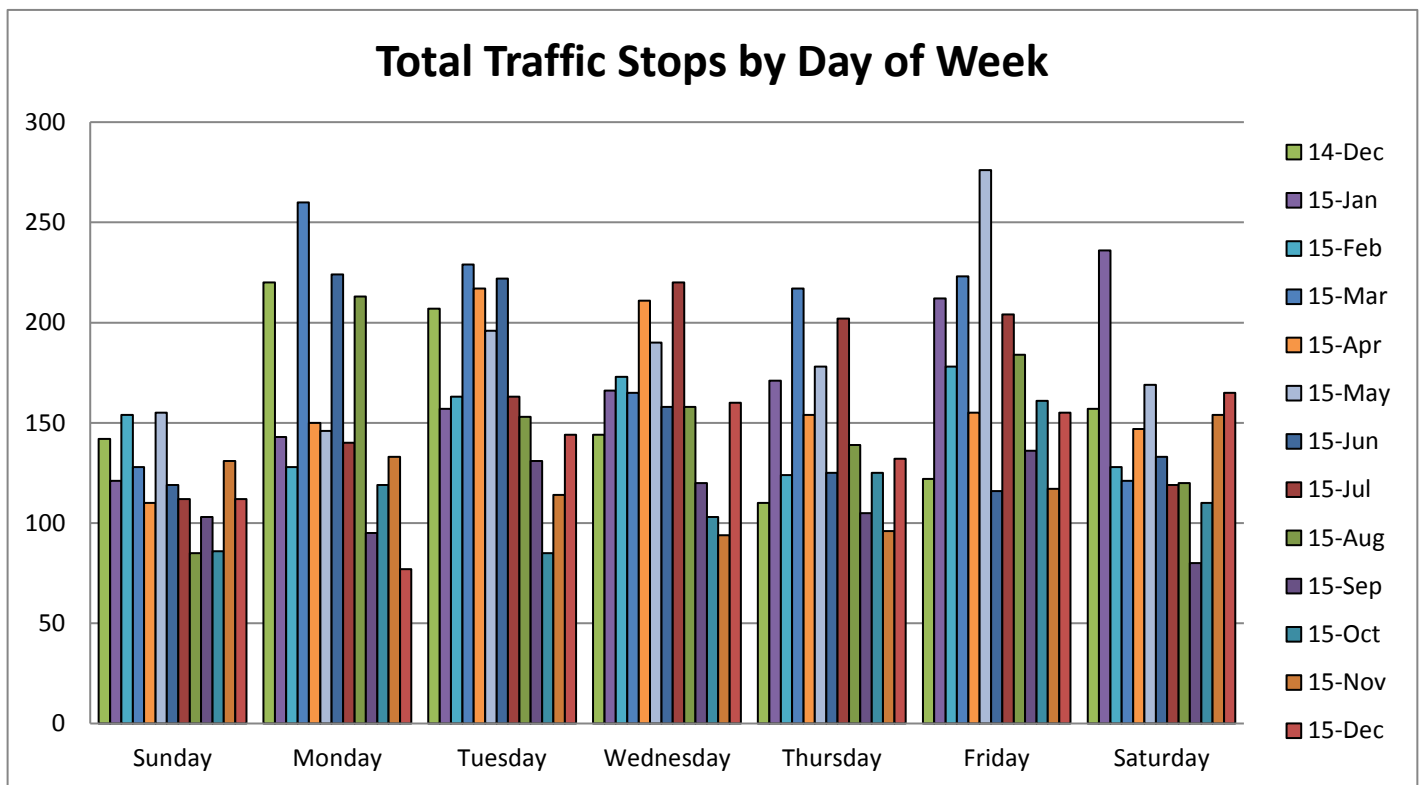


WESTFIELD POLICE DEPARTMENT

December 2015

Traffic Stops: SELF INITIATED by Day of Week

Day:	14-Dec	15-Jan	15-Feb	15-Mar	15-Apr	15-May	15-Jun	15-Jul	15-Aug	15-Sep	15-Oct	15-Nov	15-Dec
Sunday	142	121	154	128	110	155	119	112	85	103	86	131	112
Monday	220	143	128	260	150	146	224	140	213	95	119	133	77
Tuesday	207	157	163	229	217	196	222	163	153	131	85	114	144
Wednesday	144	166	173	165	211	190	158	220	158	120	103	94	160
Thursday	110	171	124	217	154	178	125	202	139	105	125	96	132
Friday	122	212	178	223	155	276	116	204	184	136	161	117	155
Saturday	157	236	128	121	147	169	133	119	120	80	110	154	165
TOTAL	1102	1206	1048	1343	1144	1310	1097	1160	1052	770	789	839	945



WESTFIELD POLICE DEPARTMENT

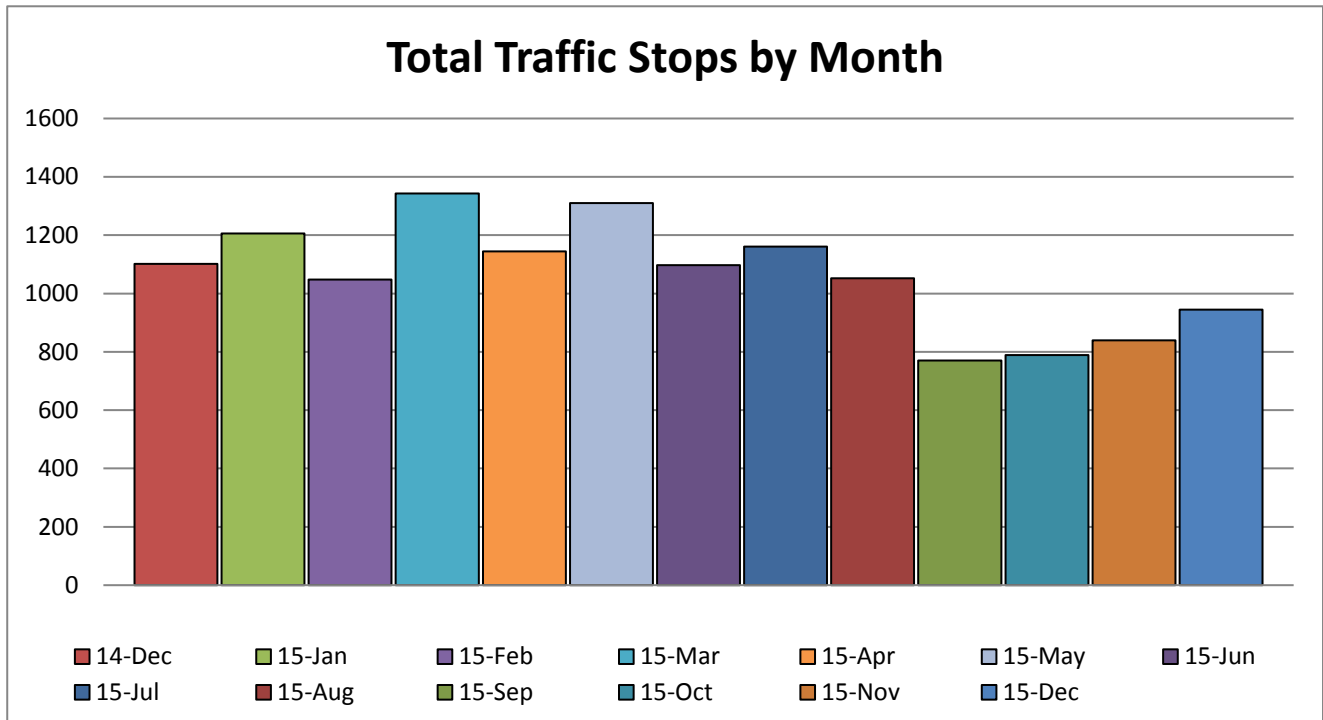
Decemeber 2015

Traffic Stops: SELF INITIATED by Hour of Day

Hour:	14-Dec	15-Jan	15-Feb	15-Mar	15-Apr	15-May	15-Jun	15-Jul	15-Aug	15-Sep	15-Oct	15-Nov	15-Dec
0	40	35	38	29	35	51	27	71	46	37	36	32	35
1	28	26	19	25	24	42	32	39	31	24	19	16	23
2	22	9	18	24	12	20	16	18	21	18	17	9	9
3	16	11	12	9	12	6	12	8	13	14	3	5	6
4	5	9	6	8	8	9	10	3	7	1	3	0	9
5	14	12	10	24	14	5	8	2	3	8	14	12	9
6	7	20	10	10	15	36	44	36	26	18	10	25	12
7	34	62	71	86	80	109	102	82	87	79	58	58	50
8	81	93	78	100	74	96	59	89	76	50	47	92	75
9	119	95	83	105	111	72	75	74	41	23	40	40	33
10	105	101	81	113	92	82	104	114	80	34	63	64	78
11	47	44	37	71	53	65	48	50	35	19	26	30	50
12	55	61	42	69	55	67	59	57	47	41	34	35	30
13	82	76	73	104	83	76	99	78	80	40	49	44	46
14	74	74	69	80	73	83	66	69	78	55	46	30	55
15	49	71	33	67	62	93	30	38	57	50	27	31	54
16	25	56	41	34	38	57	42	33	36	26	21	39	46
17	30	32	42	33	31	27	33	26	24	24	30	30	42
18	22	47	50	47	38	59	44	44	61	27	79	74	89
19	70	60	33	73	58	60	42	38	43	33	52	59	58
20	51	61	46	48	31	34	14	13	18	18	13	12	15
21	44	42	47	74	41	45	28	51	39	33	29	23	30
22	45	55	57	60	52	62	50	61	48	54	40	42	41
23	37	54	52	50	52	54	53	67	55	44	33	37	50
TOTAL	1102	1206	1048	1343	1144	1310	1097	1161	1052	770	789	839	945

WESTFIELD POLICE DEPARTMENT

December 2015



**Westfield Police Department
Community Events
December 2015**

12/11 Shopping for Kids. Purchased items for approximately 60 kids. Items went to the Amanda Strong Food for the Needy – Lt. Gorrell and Officer Elizabeth Griffin

**Westfield Police Department
Monthly Training Summary
December 2015**

12/3 Monthly K-9

12/10 Monthly ESU

Several Training Dates for New Hires – Physical Tactics, Taser Certification, Firearms, EVO and SFST

THE WESTFIELD BOARD OF PUBLIC WORKS AND SAFETY December 16, 2015

The Westfield Board of Public Works and Safety met on December 16, 2015 at the Westfield Public Works Conference Room. Present were Randy Graham, Kate Snedeker, Records Manager, Kim Strang, and Brian Zaiger, City Attorney.

Randy Graham called the meeting to order at 1:03 P.M.

AGENDA ITEMS

Action Item #1: Meeting Minutes Consideration for Approval:

Kate Snedeker made the motion to approve the November 18, 2015 meeting minutes as presented and this was seconded by Randy Graham. Vote: Yes-2; 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: Meijer Development Agreement

Andrew Murray presented stating details of agreement for Meijer to build a store, and gas station at the corner of Springmill and 32.

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

CONSENT AGENDA

Action Item #3: LPA-Consulting Contract

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

DEPARTMENT REPORTS

- **Fire** – Joe Lyons
- **Police-** Joel Rush
- **Public Works-** Phil Sundling

With no further business Randy Graham made the motion to adjourn. Kate Snedeker seconded.
The meeting was adjourned at 1:13 P.M.

Deputy Clerk-Treasurer

Board of Public Works and Safety



Board of Works

Andy Cook
Randy Graham
Kate Snedecker

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: January 27, 2016

Re: Public Works Project Report

Memo to Board Members

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

Westfield Public Works Executive Summary Progress Report

Street Maintenance

Our primary focus of the last month has been winter weather management and equipment repair. So far in 2016, we have successfully managed 3 measureable events. Between events, we perform maintenance and repair on our equipment.

Park Maintenance

Primary focus in on snow and ice removal. We have begun the construction of an restroom at Simon Moon Park. This is progressing slowly, due to weather, and is expected to finish in approximately 60 days.

Notable changes since 12/18/15

1. 161st and Oakridge RAB

This projects is complete and open and currently finishing punch list items. Our primary focus at this time is concentrated on working with Duke to have powered service installed to the lighting packaged.

2. Monon Phase 4

This projects is complete and open and currently finishing punch list items

3. Monon Phase 6

This is the section of the Monon Trail that extends north from 181st to the 191st Street. Concrete and Asphalt has been completed and the project will finalize in the spring.

Other Notable Projects

City Project Manager: Gary Pence

1. Ditch Road Extension

Project is currently designed and is awaiting funding.

2. Towne Road for 156th street to 166th street

This project is for sight distance improvements, roadway widening and 3 culvert replacement project on Towne Road from 156th to 166th street. This project is INDOT funded project (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.

3. Oak Trace Elementary School Safe Road to School Study

Engineering study to improve safety for Oak Trace Elementary School. Waiting for INDOT funding approval to start study. Expect start August 2015

City Project Manager: Phil Sundling

4. Wheeler Road Extension

- Design at 80%, awaiting final drainage decision
- Roadway reconstruction project that runs from SR 32 to 181st Street
- R/W – Wheeler parcel filed for condemnation last week, should have findings within the next month or two
- Utility Proceeds funding

Public Works Department

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

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

5. Monon Phase 6

- Design at 90%
- Project runs from 181st to the Monon Elementary School north of 191st
- Trailhead will remain as part of Phase 7 due to the latest design change – won't have time to get R/W clear and include in Phase 6
- R/W – 3 parcels left, should have all cleared in the next few weeks
- MPO funding for PE, CN, CE – match with local Utility Proceeds

6. Westfield Boulevard Extension (West Access Road)

- Design at 85%
- New roadway project that runs from 151st west of Target to new underpass that INDOT built for Union Street
- Awaiting final drainage design
- We are currently in the R/W acquisition phase
- PE funded via Village Park TIF
- RW, CN funded with Utility Proceeds

7. North Union Sidewalk Extension (CDBG)

- PCS survey finished and sent over on 11/13/14
- R/W line work sent over from Pat McCallister with PB
- \$153k reimbursement from CDBG with the City matching a portion

8. Westfield Boulevard Connector (South Poplar Extension)

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

Public Works Department

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

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

9. 186th and Springmill RAB

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

10. Red Line Mass Transit

- City committing \$146k match for PE and ENV services
- Multiple stops from 146th, Village Park, Downtown Westfield, Grand Park
- Construction not until 2020 at the earliest

City Project Manager: Mike Morgan

11. Mill St. Extension

- Home demolition is nearing completion
- We still have 2 properties to acquire before we proceed.
- We are currently in the process of acquiring the necessary permits to construct the bridge.

Public Works Department

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

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



**City of Westfield Fire Department
Board of Public Works & Safety Report
December 1st – December 31st, 2015**

**Contact: Fire Chief
Joe Lyons
or Nikki Hartman
804-3304**

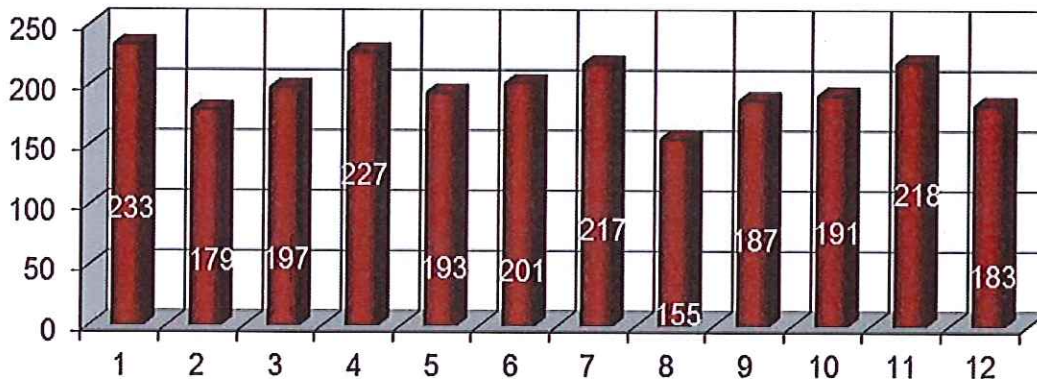


Westfield Fire Department 2015 Incident Statistics By Fire / Medical Groups

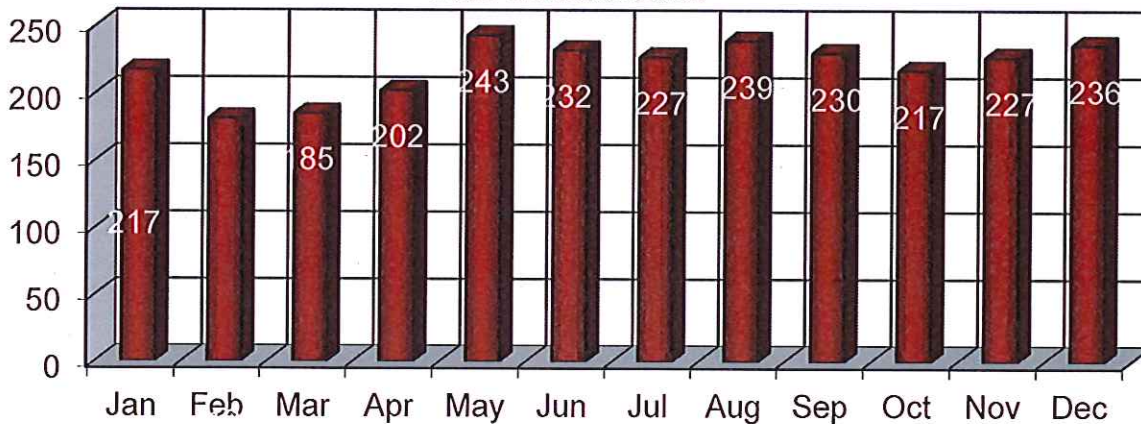


	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec		
Total WFD Fire Incidents	97	81	91	93	91	89	101	116	87	88	114	84	1132	42.9%
Total WFD Medical Incidents	120	100	94	109	152	143	126	123	143	129	113	152	1504	57.1%
Total WWFD Incidents	217	181	185	202	243	232	227	239	230	217	227	236	2636	100%

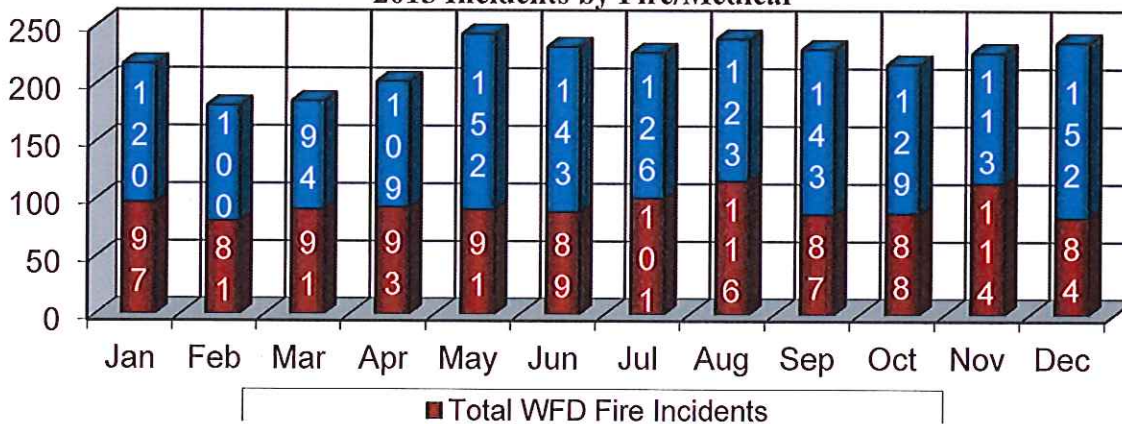
Westfield Fire Department
2014 Total Incidents



Westfield Fire Department
2015 Total Incidents



Westfield Fire Department
2015 Incidents by Fire/Medical



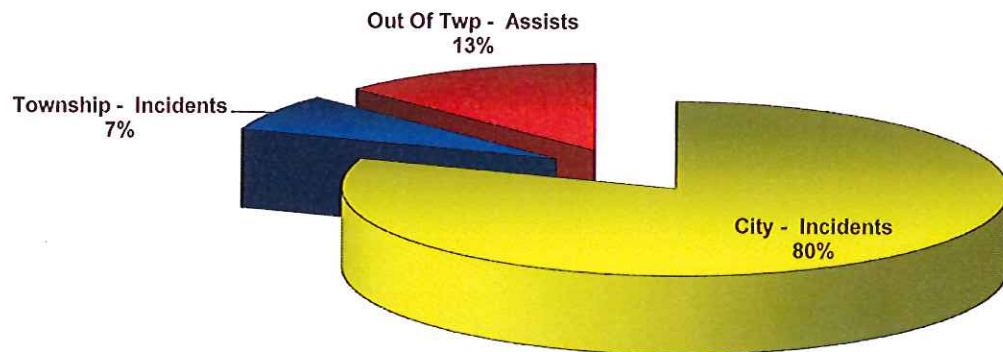


**Westfield Fire Department
2015 Fire/Medical Incidents
By Governmental Area**



2015 Incidents	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Totals	%
City - Incidents	171	142	139	181	197	193	177	194	178	171	186	187	2116	80.3%
Township - Incidents	13	11	18	8	16	12	19	13	23	17	16	16	182	6.9%
Out Of Twp - Assists	33	28	27	13	30	27	31	32	28	29	25	33	336	12.7%

**Westfield Fire Department
2015 Incidents by Governmental Areas**



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



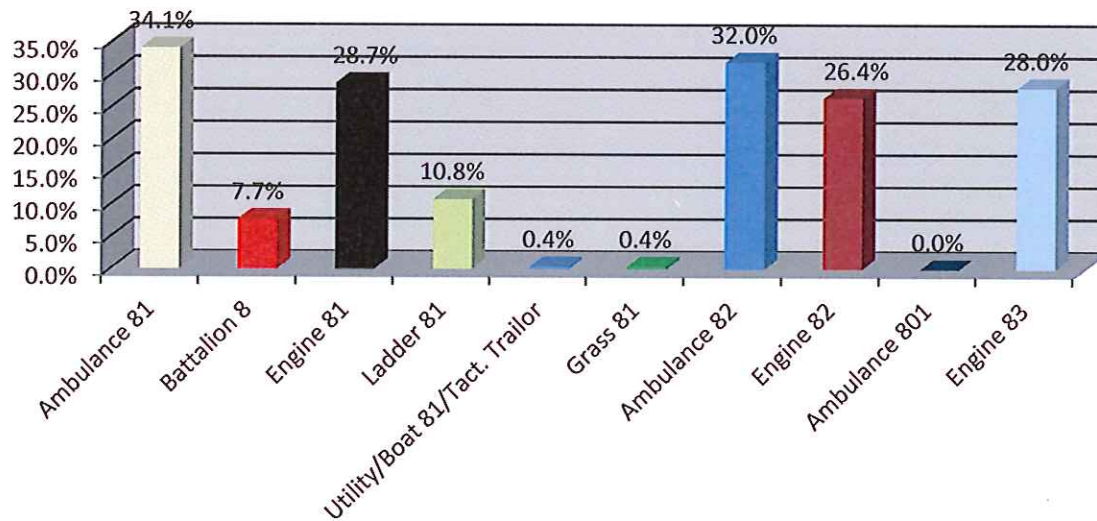
Westfield Fire Department **2015 Total Apparatus Responses** **By Unit & Station**

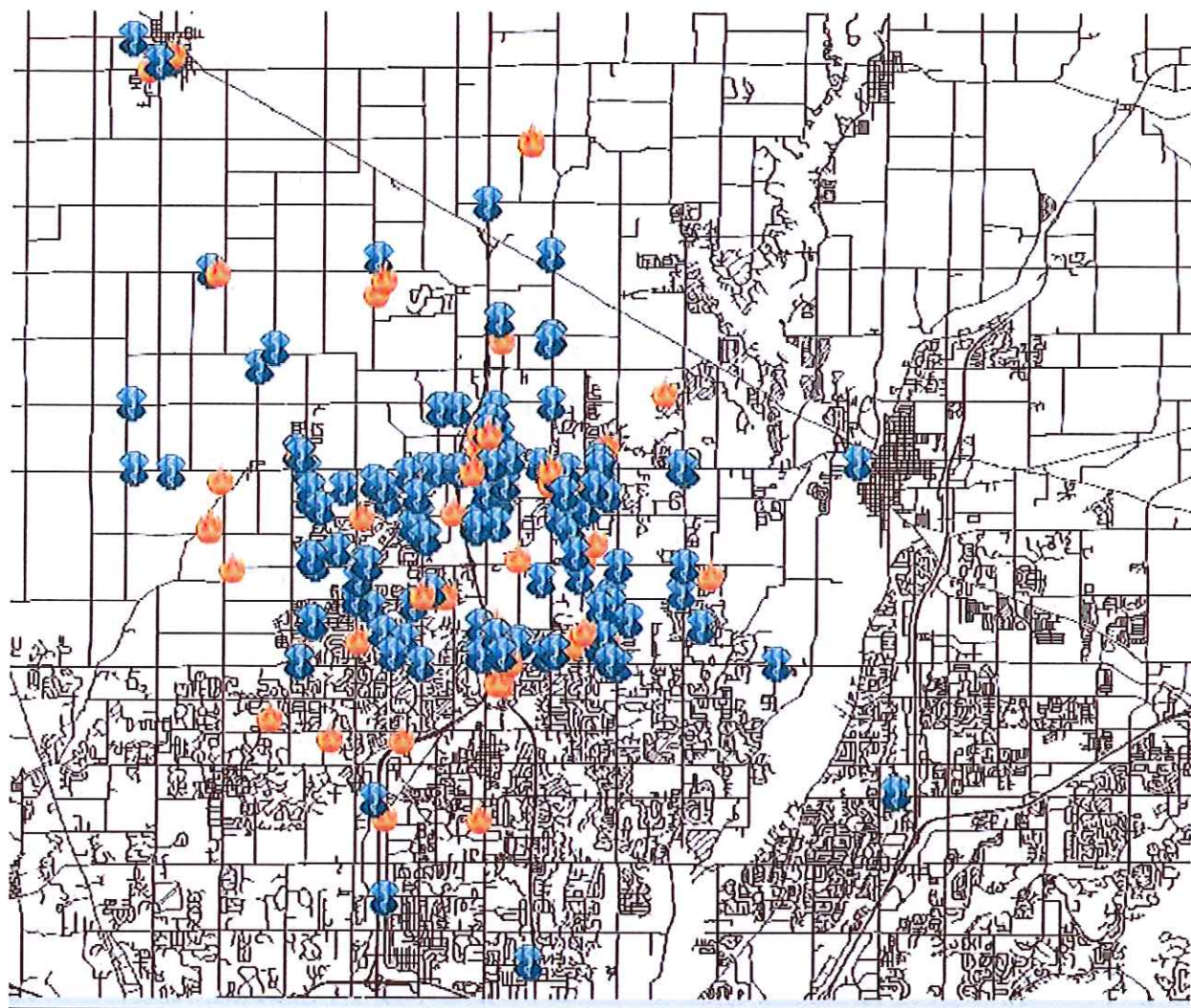


<u>Station 81 Responses</u>	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Totals	%
Ambulance 81	64	63	59	67	91	85	84	77	73	77	70	88	898	34.1%
Battalion 8	27	14	15	18	15	16	18	18	10	14	19	18	202	7.7%
Engine 81	58	50	63	53	70	61	78	75	64	64	57	64	757	28.7%
Ladder 81	31	14	22	24	32	20	31	28	19	21	17	26	285	10.8%
Utility/Boat 81/Tact. Trailer	1	-	1	2	2	-	1	1	-	1	-	1	10	0.4%
Grass 81		1	2	-	1	1	-	1	1	4	-	-	11	0.4%
EMS 80						1	1	-	-	-	-	-	2	0.1%

<u>Station 82 Responses</u>	Jan	Feb	March	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Totals	%
Ambulance 82	75	57	54	72	84	71	65	74	73	78	65	75	843	32.0%
Engine 82	69	51	37	57	54	55	49	61	62	64	73	65	697	26.4%
Ambulance 801	0	-	-	-	-	-	-	-	-	-	-	-	0	0.0%
<u>Station 83 Responses</u>													Totals	%
Engine 83	61	50	46	59	76	72	67	66	58	47	65	72	739	28.0%

Westfield Fire Department **2015 Total Apparatus Responses**





Westfield Fire Department

Kristen Custom Report

Alarm Date Between {12/01/2015} And {12/31/2015}

Incident Type	Count	Pct of Incidents	Total Est Loss	Pct of Losses
1 Fire				
100 Fire, Other	3	1.27%	\$15,000	7.83%
111 Building fire	2	0.84%	\$146,500	76.50%
113 Cooking fire, confined to container	2	0.84%	\$0	0.00%
150 Outside rubbish fire, Other	2	0.84%	\$0	0.00%
151 Outside rubbish, trash or waste fire	2	0.84%	\$0	0.00%
	11	4.66%	\$161,500	84.33%
3 Rescue & Emergency Medical Service Incident				
320 Emergency medical service, other	13	5.50%	\$0	0.00%
321 EMS call, excluding vehicle accident with	123	52.11%	\$0	0.00%
322 Motor vehicle accident with injuries	12	5.08%	\$0	0.00%
324 Motor Vehicle Accident with no injuries	6	2.54%	\$0	0.00%
351 Extrication of victim(s) from	1	0.42%	\$30,000	15.66%
352 Extrication of victim(s) from vehicle	2	0.84%	\$0	0.00%
353 Removal of victim(s) from stalled elevator	2	0.84%	\$0	0.00%
	159	67.37%	\$30,000	15.66%
4 Hazardous Condition (No Fire)				
412 Gas leak (natural gas or LPG)	1	0.42%	\$0	0.00%
444 Power line down	1	0.42%	\$0	0.00%
445 Arcing, shorted electrical equipment	1	0.42%	\$0	0.00%
480 Attempted burning, illegal action, Other	1	0.42%	\$0	0.00%
	4	1.69%	\$0	0.00%
5 Service Call				
500 Service Call, other	1	0.42%	\$0	0.00%
531 Smoke or odor removal	1	0.42%	\$0	0.00%
550 Public service assistance, Other	2	0.84%	\$0	0.00%
551 Assist police or other governmental agency	15	6.35%	\$0	0.00%
554 Assist invalid	7	2.96%	\$0	0.00%
571 Cover assignment, standby, moveup	1	0.42%	\$0	0.00%
	27	11.44%	\$0	0.00%
6 Good Intent Call				
600 Good intent call, Other	1	0.42%	\$0	0.00%
611 Dispatched & cancelled en route	15	6.35%	\$0	0.00%
622 No Incident found on arrival at dispatch	2	0.84%	\$0	0.00%
671 HazMat release investigation w/no HazMat	1	0.42%	\$0	0.00%

Westfield Fire Department

Kristen Custom Report

Alarm Date Between {12/01/2015} And {12/31/2015}

Incident Type	Count	Pct of Incidents	Total Est Loss	Pct of Losses
6 Good Intent Call	19	8.05%	\$0	0.00%
7 False Alarm & False Call				
700 False alarm or false call, Other	3	1.27%	\$0	0.00%
730 System malfunction, Other	2	0.84%	\$0	0.00%
733 Smoke detector activation due to	2	0.84%	\$0	0.00%
735 Alarm system sounded due to malfunction	3	1.27%	\$0	0.00%
740 Unintentional transmission of alarm, Other	3	1.27%	\$0	0.00%
744 Detector activation, no fire -	1	0.42%	\$0	0.00%
745 Alarm system activation, no fire -	1	0.42%	\$0	0.00%
	15	6.35%	\$0	0.00%
9 Special Incident Type				
900 Special type of incident, Other	1	0.42%	\$0	0.00%
	1	0.42%	\$0	0.00%

Total Incident Count: 236

Total Est Loss:

\$191,500

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:

- Harmony Subdivision Life Style Center - 1501251 (Bond #1118644 – Erosion Control \$13, 745.60)
- DuraMark Technologies – 1504232 (Bond #NIN1201 – Streets/Curbs \$45,311.00)
- DuraMark Technologies – 1504232 (Bond #NIN1201 – Storm Sewer \$41,163.00)
- DuraMark Technologies – 1504232 (Bond #NIN1201 – Erosion Control \$8,380.00)
- Springmill Park, Section 1 – 1401142 (CK# 11578 – Street Surface Coat Only \$2,886.62)
- Chatham Hills, Section 2 - 1501249 (Bond #9208164 – Streets/Curbs \$930,726.00)
- Chatham Hills, Section 2 - 1501249 (Bond #9208165 – Storm Sewer \$1,269,075.00)
- Chatham Hills, Section 2 - 1501249 (Bond #9208166 – Sidewalk \$309,225.00)
- Chatham Hills, Section 2 - 1501249 (Bond #9208167 – Trail \$16,777.00)
- Chatham Hills, Section 2 - 1501249 (Bond #9208168 – Erosion Control \$250,443.00)

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:

- Valley View at Viking Meadows, Section 2 (Bond #5039001 – Street/Curb \$16,846.50)
- Valley View at Viking Meadows, Section 2 (Bond #5039003 – Sidewalk \$1,650.00)
- Two Gates at Viking Meadows, Section 1 (Bond #5039000 – Street/Curb \$31,640.40)
- Lakes of Westfield, Section 1A (Bond #1102406 – Storm Sewer, Side Walk, Trail, Erosion Control \$636,458.00)
- Lakes of Westfield, Section 1B (Bond #1102405 – Storm Sewer, Side Walk, Trail, Erosion Control \$557,352.00)
- Viking Meadows at Viking Meadows Section 3 (Bond #80005611 – Monumentation \$660.00)
- Viking Meadows Blue Grass Section 2 (Bond #CMS268555 – Erosion Control \$32,674.30)
- Viking Meadows Meadowlands, Section 4 (Bond #CMS268562 – Erosion Control \$23,973.04)
- Viking Meadows Meadowlands, Section 3 (Bond #268002096 – Erosion Control \$28,441.60)
- Viking Meadows Meadowlands, Section 2 (5039434 – Erosion Control \$33,668.31)
- Meadowlands at Viking Meadows, Section 2 (Bond #5039433 – Pavement, Curb, Asphalt \$110,877.26)
- Meadowlands at Viking Meadows, Section 3 (Bond #268002095 - Pavement, Curb, Asphalt \$122,176.94)
- Meadowlands at Viking Meadows, Section 4 (Bond #CMS268561 - Pavement, Curb, Asphalt \$117,668.66)
- Bluegrass at Viking Meadows, Section 2 (Bond #CMS268554 – Curb, Base, Bituminous Surface \$166,959.88)

- Bluegrass at Viking Meadows, Section 3 (Bond #80005616 - Curb, Base, Bituminous Surface \$213,148.15)
- Viking Meadows Two Gaits, Section 2 (Bond #268002102 – Curb and Asphalt Surface \$156,533.64)
- 2015 Spring Resurfacing and Striping Program Project – Group G Striping (Bond #106265165 – Resurfacing and Striping \$140,346.00)
- 2015 Fall Resurfacing Project (Bond #B1221810 - Resurfacing \$549,722.02)

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:

- Lakes of Westfield, Section 1A (Bond #1137863 – Storm Sewer, Side Walk, Trail, Erosion Control \$30,175.00)
- Lakes of Westfield, Section 1B (Bond #1137864 – Storm Sewer, Side Walk, Trail, Erosion Control \$33,454.00)
- Springmill Park, Section 1 – 1401142 (Bond #B1221824 – Street (Excluding Surface Coat) and Trail) \$179, 075.00 + \$45, 735)
- Springmill Park, Section 1 – 1401142 (Bond #929624423 – Storm Sewer \$362,923.00)
- Springmill Park, Section 1 – 1401142 (Bond #1224327 – Sidewalk \$9,889.00)
- 2015 Fall Resurfacing Project (Bond #B1221810 - Resurfacing \$55,581.84)

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:

- Two Gaits at Viking Meadows, Section 1 (Bond #5039012 – Erosion Control \$6,136.00)
- Two Gaits at Viking Meadows, Section 1 (Bond #5039014 – Storm Sewer \$22,453.60)
- Two Gaits at Viking Meadows, Section 1 (Bond #5039015 – Street/Curbs \$3,139.13)
- Maple Village, Section 5 (Bond #5037228 – Curb Only \$3,050.00)
- Maple Village, Section 5 (Bond #Q93-7970222 – Sidewalk \$1,731.23)
- Maple Village, Section 4A (Bond #7626097 – Curb \$4,766.00)
- Maple Village, Section 4A (Bond #Q96-7970136 – Streets \$1,047.20)
- Maple Village, Section 1 (Bond #00027523 – Curb and Sidewalks \$14,061.89)
- Maple Village, Section 1 (Bond #929411926 – Water/Sanitary Sewer \$69,386.90)
- Maple Village, Section 1 (Bond #0025938/104784464 – Pavement \$)
- Maple Village, Section 2 (Bond #0062855 – Curb and Sidewalk \$6,728.94)
- Maple Village, Section 2 (Bond #0059246/105073619 – Street \$17,991.00)
- Andover, Section 4 (Bond #PHSB001000021M – Curbs \$2,277.22)
- Andover, Section 4 (Bond #INC45298 – Storm Sewer \$6,891.33)
- Maple Knoll, Section 4A (Bond #B0342789 – Curbs and Sidewalk \$1,587.35)
- Maple Knoll, Section 4A (Bond #7619635 – Asphalt Surface \$9,030.94)
- Maple Knoll, Section 4B (Bond #Q90-80705521/Q90-80705520 – Side Walk (Path)/Concrete Curbs \$419.32/\$1,681.20)
- Maple Knoll Offsite (Bond #INC42949 – Storm Sewer \$5,850.00)
- Maple Knoll Offsite (Bond #0062857 – Curbs and Sidewalk \$3,544.40)
- Maple Knoll Offsite (Bond #0059257/105073630 - Asphalt Surface \$10,170.00)

- Andover, Section 5 (Bond #1082255 – Erosion Control \$5,811.24)
- Andover, Section 5 (Bond #1082242 – Monumentation \$195.00)
- Meadowlands Viking Meadows, Section 3 (Bond #929557337 - Asphalt Surface \$9,205.80)
- Bluegrass at Viking Meadows, Section 1 (Bond #7625781/7624548 – HMA Surface/Base & HMA \$4,463.40/\$20,322.28)

LPA - CONSULTING CONTRACT

This Contract ("this Contract") is made and entered into effective as of JAN 8, 2016 ("Effective Date") by and between the City of Westfield, acting by and through its proper officials ("LOCAL PUBLIC AGENCY" or "LPA"), and A&F Engineering Co., LLC ("the CONSULTANT"), a corporation/limited liability company organized under the laws of the State of Indiana.

Des. No.: 1500429

Project Description: HSIP Funding for Lighting at Various Locations in the City of Westfield

RECITALS

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

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

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

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

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

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

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

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

SECTION III TERM. The term of this Contract shall be from the date of the last signature affixed to this Contract to the completion of the construction contract which is estimated to be December 31, 2018. A schedule for completion of the Services and deliverables is set forth in Appendix "C" which is herein attached to and made an integral part of this Contract.

SECTION IV COMPENSATION. The LPA shall pay the CONSULTANT for the Services performed under this Contract as set forth in Appendix "D" which is herein attached to and made an integral part of this Contract. The maximum amount payable under this Contract shall not exceed \$ 90,000.00.

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

SECTION VI GENERAL PROVISIONS

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

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

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

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

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

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

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

- ii. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal Contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - B. The CONSULTANT also agrees by signing this Contract that it shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly. Any person who fails to sign or file this required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.
6. **Changes in Work.** The CONSULTANT shall not commence any additional work or change the scope of the work until authorized in writing by the LPA. The CONSULTANT shall make no claim for additional compensation or time in the absence of a prior written approval and amendment executed by all signatories hereto. This Contract may be amended, supplemented or modified only by a written document executed in the same manner as this Contract. The CONSULTANT acknowledges that no claim for additional compensation or time may be made by implication, oral agreements, actions, inaction, or course of conduct.
7. **Compliance with Laws.**
- A. The CONSULTANT shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. If the CONSULTANT violates such rules, laws, regulations and ordinances, the CONSULTANT shall assume full responsibility for such violations and shall bear any and all costs attributable to the original performance of any correction of such acts. The enactment of any state or federal statute, or the promulgation of regulations thereunder, after execution of this Contract shall be reviewed by the LPA and the CONSULTANT to determine whether formal modifications are required to the provisions of this Contract.
 - B. The CONSULTANT represents to the LPA that, to the best of the CONSULTANT'S knowledge and belief after diligent inquiry and other than as disclosed in writing to the LPA prior to or contemporaneously with the execution and delivery of this Contract by the CONSULTANT:
 - i. *State of Indiana Actions.* The CONSULTANT has no current or outstanding criminal, civil, or enforcement actions initiated by the State of Indiana pending and agrees that it will immediately notify the LPA of any such actions. During the term of such actions, CONSULTANT agrees that the LPA may delay, withhold, or deny work under any supplement or amendment, change order or other contractual device issued pursuant to this Contract.
 - ii. *Professional Licensing Standards.* The CONSULTANT, its employees and SUBCONSULTANTS have complied with and shall continue to comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules or regulations governing services to be provided by the CONSULTANT pursuant to this Contract.

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

9. **Confidentiality of LPA Information.**

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

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

11. **DBE Requirements.**

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

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

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

Economic Opportunity Division Director. The DBE-3 Form requires certification by the CONSULTANT AND DBE SUB-CONSULTANT that the committed contract amounts have been paid and received.

12. Non-Discrimination.

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

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

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

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

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

13. Disputes.

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

14. Drug-Free Workplace Certification.

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

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

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

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

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

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

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

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

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

- D. The CONSULTANT shall be required to maintain in full force and effect, insurance as described below from the date of the first authorization to proceed until the LPA's acceptance of the work product. The CONSULTANT shall list both the LPA and INDOT as insureds on any policies. The CONSULTANT must obtain insurance written by insurance companies authorized to transact business in the State of Indiana and licensed by the Department of Insurance as either admitted or non-admitted insurers.
- E. The LPA, its officers and employees assume no responsibility for the adequacy of limits and coverage in the event of any claims against the CONSULTANT, its officers, employees, sub-consultants or any agent of any of them, and the obligations of indemnification in Section 19 herein shall survive the exhaustion of limits of coverage and discontinuance of coverage beyond the term specified, to the fullest extent of the law.
- F. The CONSULTANT shall furnish a certificate of insurance and all endorsements to the LPA prior to the commencement of this Contract. Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the CONSULTANT. Failure to provide insurance as required in this Contract is a material breach of Contract entitling the LPA to immediately terminate this Contract.

I. Professional Liability Insurance

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

II. Commercial General Liability Insurance

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

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

III. Automobile Liability

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

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

IV. Watercraft Liability (When Applicable)

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

V. Aircraft Liability (When Applicable)

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

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

23. **Notice to Parties:** Any notice, request, consent or communication (collectively a "Notice") under this Agreement shall be effective only if it is in writing and (a) personally delivered; (b) sent by certified or registered mail, return receipt requested, postage prepaid; or (c) sent by a nationally recognized overnight delivery service, with delivery confirmed and costs of delivery being prepaid, addressed as follows:

Notices to the LPA shall be sent to:

Mr. Gary Pence, Project Manager
2706 E. 171st Street
Westfield, IN 46074

Notices to the CONSULTANT shall be sent to:

Joseph T. Rengel, P.E., PTOE, Vice President
8365 Keystone Crossing, Suite 201
Indianapolis, IN 46240

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

24. **Order of Precedence; Incorporation by Reference.** Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) This Contract and attachments, (2) RFP document, (3) the CONSULTANT's response to the RFP document, and (4) attachments prepared by the CONSULTANT. All of the foregoing are incorporated fully by reference.
25. **Ownership of Documents and Materials.** All documents, records, programs, data, film, tape, articles, memoranda, and other materials not developed or licensed by the CONSULTANT prior to execution of this Contract, but specifically developed under this Contract shall be considered "work for hire" and the CONSULTANT assigns and transfers any ownership claim to the LPA and all such materials ("Work Product") will be the property of the LPA. The CONSULTANT agrees to execute and deliver such assignments or other documents as may be requested by the LPA. Use of these materials, other than related to contract performance by the CONSULTANT, without the LPA's prior written consent, is prohibited. During the performance of this Contract, the CONSULTANT shall be responsible for any loss of or damage to any of the Work Product developed for or supplied by INDOT and used to develop or assist in the Services provided herein while any such Work Product is in the possession or control of the CONSULTANT. Any loss or damage thereto shall be restored at the CONSULTANT's expense. The CONSULTANT shall provide the LPA full, immediate, and unrestricted access to the Work Product during the term of this Contract. The CONSULTANT represents, to the best of its knowledge and belief after diligent inquiry and other than as disclosed in writing prior to or contemporaneously with the execution of this Contract by the CONSULTANT, that the Work Product does not infringe upon or misappropriate the intellectual property or other rights of any third party. The CONSULTANT shall not be liable for the use of its deliverables described in Appendix "A" on other projects without the express written consent of the CONSULTANT or as provided in Appendix "A". The LPA acknowledges that it has no claims to any copyrights not transferred to INDOT under this paragraph.
26. **Payments.** All payments shall be made in arrears and in conformance with the LPA's fiscal policies and procedures.
27. **Penalties, Interest and Attorney's Fees.** The LPA will in good faith perform its required obligations hereunder, and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law in part, IC 5-17-5, I. C. 34-54-8, and I. C. 34-13-1.

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

35. Termination for Default.

- A. With the provision of twenty (20) days written notice to the CONSULTANT, the LPA may terminate this Contract in whole or in part if
- (i) the CONSULTANT fails to:
 - 1. Correct or cure any breach of this Contract within such time, provided that if such cure is not reasonably achievable in such time, the CONSULTANT shall have up to ninety (90) days from such notice to effect such cure if the CONSULTANT promptly commences and diligently pursues such cure as soon as practicable;
 - 2. Deliver the supplies or perform the Services within the time specified in this Contract or any amendment or extension;
 - 3. Make progress so as to endanger performance of this Contract; or
 - 4. Perform any of the other provisions of this Contract to be performed by the CONSULTANT; or
 - (ii) if any representation or warranty of the CONSULTANT is untrue or inaccurate in any material respect at the time made or deemed to be made.
- B. If the LPA terminates this Contract in whole or in part, it may acquire, under the terms and in the manner the LPA considers appropriate, supplies or services similar to those terminated, and the CONSULTANT will be liable to the LPA for any excess costs for those supplies or services. However, the CONSULTANT shall continue the work not terminated.
- C. The LPA shall pay the contract price for completed supplies delivered and Services accepted. The CONSULTANT and the LPA shall agree on the amount of payment for manufactured materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause (see Section 14). The LPA may withhold from the agreed upon price for Services any sum the LPA determine necessary to protect the LPA against loss because of outstanding liens or claims of former lien holders.
- D. The rights and remedies of the LPA in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.
- E. **Default by the LPA.** If the CONSULTANT believes the LPA is in default of this Contract, it shall provide written notice immediately to the LPA describing such default. If the LPA fails to take steps to correct or cure any material breach of this Contract within sixty (60) days after receipt of such written notice, the CONSULTANT may cancel and terminate this Contract and institute the appropriate measures to collect monies due up to and including the date of termination, including reasonable attorney fees and expenses, provided that if such cure is not reasonably achievable in such time, the LPA shall have up to one hundred twenty (120) days from such notice to effect such cure if the LPA promptly commences and diligently pursues such cure as soon as practicable. The CONSULTANT shall be compensated for Services properly rendered prior to the effective date of such termination. The CONSULTANT agrees that it has no right of termination for non-material breaches by the LPA.

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

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Non-Collusion.

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

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

CONSULTANT


Signature

Joseph T. Rengel, PE, PTOE, Vice President
(Print or type name and title)

Attest:

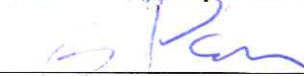

Signature

Steven J. Fehribach, P.E., President
(Print or type name and title)

LOCAL PUBLIC AGENCY


Signature

Jeremy Lollar - Director
(Print or type name and title)


Signature

Gary Pence Proj. Manager
(Print or type name and title)

Signature

(Print or type name and title)

APPENDIX "A"

SERVICES TO BE FURNISHED BY CONSULTANT:

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

The CONSULTANT shall be responsible for performing the following activities:

- A) Lighting Design
 - 1) Photometric Layout
 - 2) Plan Sheets
 - 3) Voltage Drop Calculations
 - 4) Detail Sheets
 - 5) Quantities and Estimate
 - 6) Special Provisions
- B) Utility Coordination
 - 1) Utility Coordination Process
 - 2) Utility Coordination Meeting
 - 3) Service Point Coordination and Details
 - 4) Review and Approval of Work Plans
- C) Environmental Documentation
 - 1) Statewide Programmatic Categorical Exclusion
 - 2) Minor Projects Programmatic Approval
- D) Geotechnical Engineering
 - 1) Field Bores
 - 2) Geotechnical Report
 - 3) Foundation Analysis and Recommendations

Locations of work shall be as follows:

Intersection
191st and Tomlinson
Grand Park and Wheeler
Grand Park and 186th
161st and Carey
151st and Carey
191st and Chad Hittle
161st and Union
151st and Market Center
Ditch and Casey
169th and Carey
169th and Spring Mill
Westfield Boulevard Extension
151st and Gray
Monon South of SR 32
Mill and SR 32
Mill and Union

APPENDIX "B"

INFORMATION AND SERVICES TO BE FURNISHED BY THE LPA:

The LPA shall furnish the CONSULTANT with the following:

1. Criteria for design and details for signs, signals, lighting, highway and structures such as grades, curves, sight distances, clearances, design loading, etc.
2. Standard Specifications and standard drawings applicable to the project
3. Electronic Plans of existing roadwork within the project limits
4. All written views pertinent to the location and environmental studies that are received by INDOT
5. Traffic assignments, Traffic Signal Warrants (New Signal), Traffic Lighting Warrants (New Lighting)
6. Necessary permit forms and permit processing (US Army Corps of Engineers, US Coast Guard, and/or Indiana Department of Natural Resources)
7. Available data from the transportation planning process
8. Utility plans available to INDOT covering utility facilities govern the location of signals and underground conduits throughout the affected areas
9. Provide access to enter upon public and private lands as required for the CONSULTANT to perform work under this Contract
10. Aerial Survey information
11. Existing water quality data
12. Laboratory tests for pavement investigation
13. Pavement design analysis
14. Existing Right of Way Information

APPENDIX "C"

SCHEDULE:

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

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

- A) Environmental Documentation
Completed within 180 days from Notice To Proceed
- B) Preliminary Field Check/Stage 1 Plans
Completed within 120 days from Notice To Proceed
- C) Geotechnical Engineering and Foundation Analysis
Completed within 270 days from Notice To Proceed
- D) Stage 3 Design
Completed within 360 days from Notice To Proceed
- E) Final Tracings
Completed within 540 days from Notice To Proceed

APPENDIX "D"

The CONSULTANT shall receive as payment for the work as follows:

A. Lighting Design & Utility Coordination	Lump Sum	\$68,480.00
B. Environmental Documentation	Lump Sum	\$6,500.00
C. Geotechnical and Foundation Analysis	Lump Sum	\$12,800.00
D. Post- Bid Services and Pre- Con Meeting	Lump Sum	\$2,220.00

The total amount of the contract shall not exceed \$90,000.00 without approval from the LPA.

The CONSULTANT may submit a maximum of one invoice per calendar month under this contract. The invoice shall represent the value of partially completed work as of date of the invoice.

LPA - CONSULTING CONTRACT

This Contract ("this Contract") is made and entered into effective as of JAN 13, 2016 ("Effective Date") by and between City of Westfield, acting by and through its proper officials ("LOCAL PUBLIC AGENCY" or "LPA"), and Shrewsbury & Associates ("the CONSULTANT"), [an individual residing in the State of IN] [a corporation/limited liability company organized under the laws of the State of IN].

Des. No.: 1500431, 1500428, 1500430

Project Description: Small Culvert Replacement on 151st Street. Also included in this contract is to provide environmental documents and right of way engineering for various intersection sight distance improvement locations and pedestrian ramp improvements in various locations in Westfield.

RECITALS

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

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

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

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

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

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

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

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

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

SECTION IV COMPENSATION. The LPA shall pay the CONSULTANT for the Services performed under this Contract as set forth in Appendix "D" which is herein attached to and made an integral part of this Contract. The maximum amount payable under this Contract shall not exceed \$ 127,543.

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

SECTION VI GENERAL PROVISIONS

1. **Access to Records.** The CONSULTANT and any SUB-CONSULTANTS shall maintain all books, documents, papers, correspondence, accounting records and other evidence pertaining to the cost incurred under this Contract, and shall make such materials available at their respective offices at all reasonable times during the period of this Contract and for five (5) years from the date of final payment under the terms of this Contract, for inspection or audit by the LPA, INDOT and/or the Federal Highway Administration ("FHWA") or its authorized representative, and copies thereof shall be furnished free of charge, if requested by the LPA, INDOT, and/or FHWA. The CONSULTANT agrees that, upon request by any agency participating in federally-assisted programs with whom the CONSULTANT has contracted or seeks to contract, the CONSULTANT may release or make available to the agency any working papers from an audit performed by the LPA, INDOT and/or FHWA of the CONSULTANT and its SUB-CONSULTANTS in connection with this Contract, including any books, documents, papers, accounting records and other documentation which support or form the basis for the audit conclusions and judgments.
2. **Assignment; Successors.**
 - A. The CONSULTANT binds its successors and assignees to all the terms and conditions of this Contract. The CONSULTANT shall not assign or subcontract the whole or any part of this Contract without the LPA's prior written consent, except that the CONSULTANT may assign its right to receive payments to such third parties as the CONSULTANT may desire without the prior written consent of the LPA, provided that the CONSULTANT gives written notice (including evidence of such assignment) to the LPA thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one party.
 - B. Any substitution of SUB-CONSULTANTS must first be approved and receive written authorization from the LPA. Any substitution or termination of a Disadvantaged Business Enterprise ("DBE") SUB-CONSULTANT must first be approved and receive written authorization from the LPA and INDOT's Economic Opportunity Division Director.
3. **Audit.** The CONSULTANT acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with 48 CFR part 31 and audit guidelines specified by the State and/or in accordance with audit requirements specified elsewhere in this Contract.
4. **Authority to Bind Consultant.** The CONSULTANT warrants that it has the necessary authority to enter into this Contract. The signatory for the CONSULTANT represents that he/she has been duly authorized to execute this Contract on behalf of the CONSULTANT and has obtained all necessary or applicable approval to make this Contract fully binding upon the CONSULTANT when his/her signature is affixed hereto.
5. **Certification for Federal-Aid Contracts Lobbying Activities.**
 - A. The CONSULTANT certifies, by signing and submitting this Contract, to the best of its knowledge and belief after diligent inquiry, and other than as disclosed in writing to the LPA prior to or contemporaneously with the execution and delivery of this Contract by the CONSULTANT, the CONSULTANT has complied with Section 1352, Title 31, U.S. Code, and specifically, that:
 - i. No federal appropriated funds have been paid, or will be paid, by or on behalf of the CONSULTANT to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contracts, the making of any federal grant, the making of any federal loan, the

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

- ii. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal Contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - B. The CONSULTANT also agrees by signing this Contract that it shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly. Any person who fails to sign or file this required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.
6. Changes in Work. The CONSULTANT shall not commence any additional work or change the scope of the work until authorized in writing by the LPA. The CONSULTANT shall make no claim for additional compensation or time in the absence of a prior written approval and amendment executed by all signatories hereto. This Contract may be amended, supplemented or modified only by a written document executed in the same manner as this Contract. The CONSULTANT acknowledges that no claim for additional compensation or time may be made by implication, oral agreements, actions, inaction, or course of conduct.
7. Compliance with Laws.
- A. The CONSULTANT shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. If the CONSULTANT violates such rules, laws, regulations and ordinances, the CONSULTANT shall assume full responsibility for such violations and shall bear any and all costs attributable to the original performance of any correction of such acts. The enactment of any state or federal statute, or the promulgation of regulations thereunder, after execution of this Contract shall be reviewed by the LPA and the CONSULTANT to determine whether formal modifications are required to the provisions of this Contract.
 - B. The CONSULTANT represents to the LPA that, to the best of the CONSULTANT'S knowledge and belief after diligent inquiry and other than as disclosed in writing to the LPA prior to or contemporaneously with the execution and delivery of this Contract by the CONSULTANT:
 - i. *State of Indiana Actions.* The CONSULTANT has no current or outstanding criminal, civil, or enforcement actions initiated by the State of Indiana pending and agrees that it will immediately notify the LPA of any such actions. During the term of such actions, CONSULTANT agrees that the LPA may delay, withhold, or deny work under any supplement or amendment, change order or other contractual device issued pursuant to this Contract.
 - ii. *Professional Licensing Standards.* The CONSULTANT, its employees and SUBCONSULTANTS have complied with and shall continue to comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules or regulations governing services to be provided by the CONSULTANT pursuant to this Contract.

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

9. **Confidentiality of LPA Information.**

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

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

11. **DBE Requirements.**

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

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

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

Economic Opportunity Division Director. The DBE-3 Form requires certification by the CONSULTANT AND DBE SUB-CONSULTANT that the committed contract amounts have been paid and received.

12. **Non-Discrimination.**

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

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

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

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

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

13. Disputes.

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

14. Drug-Free Workplace Certification.

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

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

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

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

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

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

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

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

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

- D. The CONSULTANT shall be required to maintain in full force and effect, insurance as described below from the date of the first authorization to proceed until the LPA's acceptance of the work product. The CONSULTANT shall list both the LPA and INDOT as insureds on any policies. The CONSULTANT must obtain insurance written by insurance companies authorized to transact business in the State of Indiana and licensed by the Department of Insurance as either admitted or non-admitted insurers.
- E. The LPA, its officers and employees assume no responsibility for the adequacy of limits and coverage in the event of any claims against the CONSULTANT, its officers, employees, sub-consultants or any agent of any of them, and the obligations of indemnification in Section 19 herein shall survive the exhaustion of limits of coverage and discontinuance of coverage beyond the term specified, to the fullest extent of the law.
- F. The CONSULTANT shall furnish a certificate of insurance and all endorsements to the LPA prior to the commencement of this Contract. Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the CONSULTANT. Failure to provide insurance as required in this Contract is a material breach of Contract entitling the LPA to immediately terminate this Contract.

I. Professional Liability Insurance

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

II. Commercial General Liability Insurance

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

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

III. Automobile Liability

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

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

IV. Watercraft Liability (When Applicable)

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

V. Aircraft Liability (When Applicable)

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

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

Notices to the LPA shall be sent to:

Notices to the CONSULTANT shall be sent to:

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

24. **Order of Precedence; Incorporation by Reference.** Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) This Contract and attachments, (2) RFP document, (3) the CONSULTANT's response to the RFP document, and (4) attachments prepared by the CONSULTANT. All of the foregoing are incorporated fully by reference.
25. **Ownership of Documents and Materials.** All documents, records, programs, data, film, tape, articles, memoranda, and other materials not developed or licensed by the CONSULTANT prior to execution of this Contract, but specifically developed under this Contract shall be considered "work for hire" and the CONSULTANT assigns and transfers any ownership claim to the LPA and all such materials ("Work Product") will be the property of the LPA. The CONSULTANT agrees to execute and deliver such assignments or other documents as may be requested by the LPA. Use of these materials, other than related to contract performance by the CONSULTANT, without the LPA's prior written consent, is prohibited. During the performance of this Contract, the CONSULTANT shall be responsible for any loss of or damage to any of the Work Product developed for or supplied by INDOT and used to develop or assist in the Services provided herein while any such Work Product is in the possession or control of the CONSULTANT. Any loss or damage thereto shall be restored at the CONSULTANT's expense. The CONSULTANT shall provide the LPA full, immediate, and unrestricted access to the Work Product during the term of this Contract. The CONSULTANT represents, to the best of its knowledge and belief after diligent inquiry and other than as disclosed in writing prior to or contemporaneously with the execution of this Contract by the CONSULTANT, that the Work Product does not infringe upon or misappropriate the intellectual property or other rights of any third party. The CONSULTANT shall not be liable for the use of its deliverables described in Appendix "A" on other projects without the express written consent of the CONSULTANT or as provided in Appendix "A". The LPA acknowledges that it has no claims to any copyrights not transferred to INDOT under this paragraph.
26. **Payments.** All payments shall be made in arrears and in conformance with the LPA's fiscal policies and procedures.
27. **Penalties, Interest and Attorney's Fees.** The LPA will in good faith perform its required obligations hereunder, and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law in part, IC 5-17-5, I. C. 34-54-8, and I. C. 34-13-1.

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

35. Termination for Default.

- A. With the provision of twenty (20) days written notice to the CONSULTANT, the LPA may terminate this Contract in whole or in part if
- (i) the CONSULTANT fails to:
 - 1. Correct or cure any breach of this Contract within such time, provided that if such cure is not reasonably achievable in such time, the CONSULTANT shall have up to ninety (90) days from such notice to effect such cure if the CONSULTANT promptly commences and diligently pursues such cure as soon as practicable;
 - 2. Deliver the supplies or perform the Services within the time specified in this Contract or any amendment or extension;
 - 3. Make progress so as to endanger performance of this Contract; or
 - 4. Perform any of the other provisions of this Contract to be performed by the CONSULTANT; or
 - (ii) if any representation or warranty of the CONSULTANT is untrue or inaccurate in any material respect at the time made or deemed to be made.
- B. If the LPA terminates this Contract in whole or in part, it may acquire, under the terms and in the manner the LPA considers appropriate, supplies or services similar to those terminated, and the CONSULTANT will be liable to the LPA for any excess costs for those supplies or services. However, the CONSULTANT shall continue the work not terminated.
- C. The LPA shall pay the contract price for completed supplies delivered and Services accepted. The CONSULTANT and the LPA shall agree on the amount of payment for manufactured materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause (see Section 14). The LPA may withhold from the agreed upon price for Services any sum the LPA determine necessary to protect the LPA against loss because of outstanding liens or claims of former lien holders.
- D. The rights and remedies of the LPA in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.
- E. **Default by the LPA.** If the CONSULTANT believes the LPA is in default of this Contract, it shall provide written notice immediately to the LPA describing such default. If the LPA fails to take steps to correct or cure any material breach of this Contract within sixty (60) days after receipt of such written notice, the CONSULTANT may cancel and terminate this Contract and institute the appropriate measures to collect monies due up to and including the date of termination, including reasonable attorney fees and expenses, provided that if such cure is not reasonably achievable in such time, the LPA shall have up to one hundred twenty (120) days from such notice to effect such cure if the LPA promptly commences and diligently pursues such cure as soon as practicable. The CONSULTANT shall be compensated for Services properly rendered prior to the effective date of such termination. The CONSULTANT agrees that it has no right of termination for non-material breaches by the LPA.

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

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Non-Collusion.

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

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

CONSULTANT

Signature

Kenneth Beach
(Print or type name and title)

LOCAL PUBLIC AGENCY

Signature

Jeremy Lollar - Director
(Print or type name and title)

Signature

GARY PENE 1-13-16
(Print or type name and title) Project Manager

Attest:

Signature

Kylee Davis, Accounting
(Print or type name and title) Assistant

Signature

(Print or type name and title)

APPENDIX "A"

SERVICES TO BE FURNISHED BY CONSULTANT:

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

The scope of work is described below.

The CONSULTANT shall be responsible for performing the following activities:

Task 1 Culvert Replacement at 151st Street - Des. No. 1500431

1.) Field Survey and Property Line Determination

- A. The CONSULTANT shall provide the field survey required for preparation of design plans in conformance with the requirements of the "Survey Manual, Location Survey, Indiana State Highway Commission," a copy of which is on file with the Indiana Department of Transportation (INDOT), and same is incorporated herein by reference and made a part hereof.

The limits of the field survey shall be an approximate 150' strip 250' east and 250' west from the culvert crossing. Additional areas to be surveyed include the stream crossing cross sections for a distance of 200' upstream and downstream of the culvert crossing.

2.) Environmental

- A. The CONSULTANT shall carry out environmental analyses and develop the appropriate level of Categorical Exclusion for the project in accordance with INDOT environmental procedures as determined by the anticipated project impacts and the Categorical Exclusion level thresholds per the Environmental Screening/CE-1 Form included in the Indiana Categorical Exclusion Manual dated March 2009. A Level 2 Categorical Exclusion is anticipated for this project. The environmental services required to develop this project shall be in accordance with the "Procedural Manual for Preparing Environmental Documents," dated 2008 and the "INDOT LPA Process Guidance Document for Local Federal-Aid Projects dated January 2009 and revisions thereto. A copy of this document is on file with INDOT and is incorporated by reference and is made a part hereof.
- B. The CONSULTANT shall provide necessary specialized studies required to complete the environmental document. This shall include Wetland Delineation; Historic Properties Report, archaeological investigations, Section 106 documentation; a Red Flag Summary, an Initial Site Assessments relative to hazardous material as required. The environmental services required to develop this project shall be in accordance with the "Procedural Manual for Preparing Environmental Documents," dated 2008 and the "INDOT LPA Process Guidance Document for Local Federal-Aid Projects dated January 2009 and revisions thereto. A copy of this document is on file with INDOT and is incorporated by reference and is made a part hereof.
 - 1. Based upon the scope of work, this project appears to fall under Category B-9 of the *Programmatic Agreement (PA) among the FHWA, the INDOT, the Advisory Council on Historic Preservation (ACHP), and the Indiana State Historic Preservation Officer (Indiana SHPO) regarding the implementation of the Federal Aid Highway Program in the State of Indiana*. Shrewsbury will consult with the INDOT Cultural Resources Staff to verify the details of this project in relation to the guidelines of the PA.
 - 2. An Archaeological Records Check and an Archaeology Phase Ia Report will be prepared. If the archaeological investigation determines that no National Register of Historic Places (NRHP) eligible or listed archaeological resources are present within the project area, then the

project may be reviewed as a minor project. If the archaeological investigation locates NRHP eligible or listed archaeological resources, then the project must complete full Section 106 review. Accidental Discoveries, LLC will conduct the Archaeological Records Check and prepare the Phase Ia Report.

3. The Archeological investigation will be conducted in accordance and compliance with the Secretary of the Interior's *Standards and Guidelines for Archaeology and Historic Preservation* (48 FR 44716), the current version of the Indiana Department of Natural Resources, Division of Historic Preservation and Archaeology (IDNR, DHPA) *Guidebook: Indiana Historic Sites and Structures Inventory - Archaeological Sites*, recent amendments to the Indiana Historic Preservation Act (IC 14-21-1), and INDOT *Cultural Resources Manual*. Investigations and recommendations will be completed or directly supervised by a Qualified Professional meeting the standards set forth in 36 CFR 61 or the National Historic Preservation Act and 312-IAC-21 of the Indiana Administrative Code.
- C. The CONSULTANT shall prepare a Wetland Delineation Report including Qualitative Habitat Evaluation Index for streams to determine the presence of wetlands and other aquatic resources that are regulated by USACE and/or IDEM. The Wetland Delineation Report will include location of wetlands or waterways on the topographic survey and coordination with the Design Engineers regarding avoidance alternatives for the proposed project.
- D. The CONSULTANT shall prepare and submit the appropriate permit applications for the project including Section 401 Water Quality Certification to the Indiana Department of Environmental Management (IDEM) and the Section 404 Water Quality Permit to the United States Army Corps of Engineers (USACE). CONSULTANT will develop and evaluate potential avoidance alternatives, determine whether any alternatives are feasible and prudent, and analyze impacts from identified avoidance alternatives, as required for individual evaluations. Impacts greater than 0.1 acre are not anticipated as part of this project, and mitigation is therefore not anticipated to be necessary. If mitigation becomes necessary, additional or supplemental services will be required to complete the Section 401 Water Quality Certification and Section 404 Permitting process. If the CONSULTANT is required to provide an environmental service not listed above, the work to provide such additional service shall be considered a change in the scope of work.
- E. The CE documentation includes gathering and documenting information applicable to the scope of the project and the resulting impacts to the natural and man-made environment. The draft CE Document will be submitted to the City of Westfield for initial review and comment and then to the INDOT Greenfield District for review, approval, and signature. The signature would serve as the final approval of the document, as the project is not expected to exceed the guidelines for required public involvement of the *INDOT Public Involvement Manual*.
- F. Environmental Services Exclusions:
 1. Services which would be subject to a contract addendum include: Waters and/or Wetlands Mitigation; Any documentation regarding a Section 4(f) or Section 6(f) use; Cemetery Development Plan; Investigations of an Above Ground Historical Feature, ex. Historic Property Report; Drafting of a Memorandum of Agreement; Consulting Party Coordination and/or Meeting/s; Archaeological Phase 1b, 1c, Phase II, or Phase III Investigations or any tasks associated with the discovery of human remains; Coordination and/or documentation regarding a "Likely to Adversely Effect" an endangered or threatened species; Detailed assessment of a sole source aquifer; Coordination and/or documentation regarding karst investigations; Noise Analysis; Coordination and/or documentation regarding a "significant impact" to Prime Farmland; Coordination and/or documentation Floodplain Impacts Category 3, 4, or 5; Hot Spot Analysis; Mobile Source Air Toxics Analysis; Phase I Environmental Site Assessment; Phase II Subsurface Investigations; Public Involvement; Public Hearing; CE Exceeding Level 2

3.) Road Design

- A. The CONSULTANT shall prepare preliminary plans and preliminary opinions of probable construction cost, which shall be in accordance with the accepted standards for such work and in accordance with the following documents in effect at the time the plans or reports are submitted: American Association of State Highway and Transportation Officials (AASHTO) "A Policy on Geometric Design of Highways and Streets," INDOT's Standard Specifications, Road Memoranda, and Design Manuals except as modified by supplemental specifications and special provisions, if any, and shall be completed to the point required to fulfill the requirements for a Design Public Hearing. No further work shall be done on the plans unless and until specifically directed by the LPA.
- a. The CONSULTANT shall perform hydraulic computations of proposed culvert structures utilizing Hy8 software.
 - b. The CONSULTANT shall perform guardrail length of need calculations utilizing current INDOT approved methodology.

Following approval of the preliminary plans, the CONSULTANT shall prepare contract plans, special provisions for the specifications, and final opinion of probable cost for the construction of the project. The opinion of probable cost for construction shall be prepared according to the current practices of INDOT and shall include all items of work required for the complete construction of the work, including all temporary work necessary in connection therewith. The unit prices to be used shall be in accordance with those used by INDOT.

- B. The CONSULTANT shall prepare and submit a Rule 5 Erosion Control Plan to procure appropriate Notice of Intent for construction if required.
- C. Upon completion and final approval of the work by the LPA, the CONSULTANT shall deliver to the LPA the following.

For Final Road Plans:

1. One (1) set of final approved tracings of the contract plans drawn to a suitable scale on standard 24" x 36" sheets prepared with the following process: Ink on approved ink medium for all sheets.
2. One (1) set (original) of all survey field notes (Transit and Level Notes), section plats, and subdivision plats for all surveys the CONSULTANT has performed on the project. The field notes are to be in approved Engineer Field Books.
3. One (1) set of Special Provisions for the Specifications
4. One (1) copy of the opinion of probable construction cost
5. One (1) copy of all design computations, indexed, paged, and bound

4.) Right-of-Way Services

- A. Right-of-Way Management and Supervision
1. CONSULTANT shall be responsible for administering, scheduling, and coordinating all activities necessary to certify right-of-way has been acquired and the project is clear for construction letting. This responsibility shall include:
 - a. Meetings, conferences, and communications with property owners, relocatees, attorneys, engineers, appraisers, buyers, LOCAL PUBLIC AGENCY, INDOT, and FHWA

- b. Revisions to construction plans, plats, legal descriptions, and right-of-way stake-outs that may be required

B. Abstracting

- 1. Parcels with a fair market value of \$5,000 or more
 - a. A documented preliminary title search is required covering an interval of time including one valid transfer of fee title beyond a 20-year period from the date of the search.
 - b. Each title search shall be updated, if necessary, and a Guaranty of Title issued in the amount of \$5,000.
- 2. Parcels with a fair market value of \$5,000 or less or Temporary Right-of-Way
 - a. A documented minimal title search by a title company, or
 - b. A verified last-deed-of-record search by SUBCONSULTANT

C. Plats, Legal Descriptions, and Staking

- 1. The CONSULTANT shall prepare metes and bounds legal descriptions and land plats for all acquisitions according to the INDOT Right-of-Way Engineering Manual and all applicable state of Indiana Codes, including, but not limited to, the following as applicable:
 - IC 32-1-2-37
 - IC 32-5-2-2
 - IC 36-2-19 Sections 4, 5, and 6
- 2. The interpretation as to the specific requirements of these laws and regulations will be at the discretion of the LOCAL PUBLIC AGENCY and the CONSULTANT.
 - a. The legal descriptions shall be prepared and certified by an Indiana Registered Surveyor.
 - b. Each plat shall include the following.
 - i) Total area before taking
 - ii) Area of existing right-of-way
 - iii) Area of all residue

D. Right-of-Way Staking

- a. The CONSULTANT shall provide right-of-way stakeouts locating the new right-of-way line. The stakeout shall be made using wooden hubs located at changes in bearing and other points necessary to indicate the location of the right-of-way takings (including permanent and temporary right-of-way).

Task 2 Pedestrian Curb Ramp Improvements - Des. No. 1500428

1.) Field Survey and Property Line Determination

- A. Field Survey and Property Line Determination will not be included for this portion of the Contract. The design shall utilize aerial photography, existing survey information or GIS data as appropriate.

2.) Environmental

- A. The CONSULTANT shall carry out environmental analyses and develop the appropriate level of Categorical Exclusion for the project in accordance with INDOT environmental procedures as determined by the anticipated project impacts and the Categorical Exclusion level thresholds per the Environmental Screening/CE-1 Form included in the Indiana Categorical Exclusion Manual dated March 2009. This project appears to fall under Categories A-5, B-1 and B-2 of the Programmatic Agreement (PA) among the Federal Highway Administration (FHWA), the INDOT, the Advisory Council on Historic Preservation (ACHP), and the Indiana State Historic Preservation Officer (Indiana SHPO) regarding the implementation of the Federal Aid Highway Program in the State of Indiana.
- B. The CONSULTANT will provide project information to include a written project description of each intersection, location maps, U.S. Geological Survey (USGS) maps, aerial photographs, soil survey data, and Interim Reports (if available) to INDOT Cultural Resources Staff and request their determination for the Minor Projects PA.
- C. The CONSULTANT will prepare the following documents for INDOT Greenfield District review and approval:
 - a. INDOT Greenfield District Programmatic Categorical Exclusion Project Information/Scope form
 - b. Programmatic CE Form with exhibits for each intersection
 - c. Environmental Commitments Spread Sheet
- D. Environmental Services Exclusions:
 - a. Services which would be subject to a contract addendum include: Waters Determination; Wetlands Determination and /or Delineation; Waters and/or Wetlands Mitigation; Any documentation regarding a Section 4(f) or Section 6(f) use; Cemetery Development Plan; Investigations of an Above Ground Historical Feature, ex. Historic Property Report; Any Section 106 Coordination, Investigation, and/or Documentation; Drafting of a Memorandum of Agreement; Consulting Party Coordination and/or Meeting/s; Archaeological Phase 1b, 1c, Phase II, or Phase III Investigations or any tasks associated with the discovery of human remains; Coordination and/or documentation regarding a "Likely to Adversely Effect" an endangered or threatened species; Detailed assessment of a sole source aquifer; Coordination and/or documentation regarding karst investigations; Noise Analysis; Coordination and/or documentation regarding a "significant impact" to Prime Farmland; Coordination and/or documentation Floodplain Impacts Category 3, 4, or 5; Hot Spot Analysis; Mobile Source Air Toxics Analysis; Phase I Environmental Site Assessment; Phase II Subsurface Investigations; Public Involvement; Public Hearing; Permitting; CE Exceeding Level 2

3.) Road Design

- A. The CONSULTANT shall prepare preliminary plans and preliminary opinions of probable construction cost, which shall be in accordance with the accepted standards for such work and in accordance with the following documents in effect at the time the plans or reports are submitted: American Association of State Highway and Transportation Officials (AASHTO) "A Policy on Geometric Design of Highways and Streets," INDOT's Standard Specifications, Road Memoranda, and Design Manuals except as modified by supplemental specifications and special provisions, if any, and shall be completed to the point required to

fulfill the requirements for a Design Public Hearing. No further work shall be done on the plans unless and until specifically directed by the LPA.

- a. The CONSULTANT shall provide sufficient curb ramp details to allow the contractor to construct the new curb ramps to appropriate ADA criteria.

Following approval of the preliminary plans, the CONSULTANT shall prepare contract plans, special provisions for the specifications, and final opinion of probable cost for the construction of the project. The opinion of probable cost for construction shall be prepared according to the current practices of INDOT and shall include all items of work required for the complete construction of the work, including all temporary work necessary in connection therewith. The unit prices to be used shall be in accordance with those used by INDOT.

- B. Upon completion and final approval of the work by the LPA, the CONSULTANT shall deliver to the LPA the following.

For Final Road Plans:

1. One (1) set of final approved tracings of the contract plans drawn to a suitable scale on standard 24" x 36" sheets prepared with the following process: Ink on approved ink medium for all sheets.
2. One (1) set (original) of all survey field notes (Transit and Level Notes), section plats, and subdivision plats for all surveys the CONSULTANT has performed on the project. The field notes are to be in approved Engineer Field Books.
3. One (1) set of Special Provisions for the Specifications
4. One (1) copy of the opinion of probable construction cost
5. One (1) copy of all design computations, indexed, paged, and bound

Task 3 Intersection Sight Distance Improvements - Des. No. 1500430

1.) Environmental

- A. The CONSULTANT shall carry out environmental analyses and develop the appropriate level of Categorical Exclusion for the project in accordance with INDOT environmental procedures as determined by the anticipated project impacts and the Categorical Exclusion level thresholds per the Environmental Screening/CE-1 Form included in the Indiana Categorical Exclusion Manual dated March 2009. A Level 2 Categorical Exclusion is anticipated for this project. The environmental services required to develop this project shall be in accordance with the "Procedural Manual for Preparing Environmental Documents," dated 2008 and the "INDOT LPA Process Guidance Document for Local Federal-Aid Projects dated January 2009 and revisions thereto. A copy of this document is on file with INDOT and is incorporated by reference and is made a part hereof.
- B. The CONSULTANT shall provide necessary specialized studies required to complete the environmental document. This shall include Wetland Delineation; Historic Properties Report, archaeological investigations, Section 106 documentation; a Red Flag Summary, an Initial Site Assessments relative to hazardous material as required. The environmental services required to develop this project shall be in accordance with the "Procedural Manual for Preparing Environmental Documents," dated 2008 and the "INDOT LPA Process Guidance Document for Local Federal-Aid Projects dated January 2009 and revisions thereto. A copy of this document is on file with INDOT and is incorporated by reference and is made a part hereof.
 1. Based upon the scope of work, this project appears to fall under Category A-9 of the *Programmatic Agreement (PA) among the FHWA, the INDOT, the Advisory Council on*

Historic Preservation (ACHP), and the Indiana State Historic Preservation Officer (Indiana SHPO) regarding the implementation of the Federal Aid Highway Program in the State of Indiana. Shrewsbury will consult with the INDOT Cultural Resources Staff to verify the details of this project in relation to the guidelines of the MPPA.

2. The Indiana Department of Natural Resources (IDNR) State Historic Architectural and Archaeological Research Database (SHAARD) would be consulted as the exact locations of the proposed Intersection Sight Distance Improvement projects are made available. If potential historical features are identified within the vicinity of the proposed project; coordination would occur with INDOT Cultural Resources Office (CRO) to determine the extent of investigation required. If features are identified which would invalidate the usage of the MPPA, Category A, the investigations, documentation, and coordination necessary would be outside the scope of this proposal and would require additional fees.
- C. The CE documentation includes gathering and documenting information applicable to the scope of the project and the resulting impacts to the natural and man-made environment. The draft CE Document will be submitted to the City of Westfield for initial review and comment and then to the INDOT Greenfield District for review, approval, and signature. The signature would serve as the final approval of the document, as the project is not expected to exceed the guidelines for required public involvement of the *INDOT Public Involvement Manual*.
- D. Environmental Services Exclusions:
 1. Services which would be subject to a contract addendum include: Waters Determination; Wetlands Determination and /or Delineation; Waters and/or Wetlands Mitigation; Any documentation regarding a Section 4(f) or Section 6(f) use; Cemetery Development Plan; Investigations of an Above Ground Historical Feature, ex. Historic Property Report; Any Section 106 Coordination, Investigation, and/or Documentation; Drafting of a Memorandum of Agreement; Consulting Party Coordination and/or Meeting/s; Archaeological Phase 1b, 1c, Phase II, or Phase III Investigations or any tasks associated with the discovery of human remains; Coordination and/or documentation regarding a "Likely to Adversely Effect" an endangered or threatened species; Detailed assessment of a sole source aquifer; Coordination and/or documentation regarding karst investigations; Noise Analysis; Coordination and/or documentation regarding a "significant impact" to Prime Farmland; Coordination and/or documentation Floodplain Impacts Category 3, 4, or 5; Hot Spot Analysis; Mobile Source Air Toxics Analysis; Phase I Environmental Site Assessment; Phase II Subsurface Investigations; Public Involvement; Public Hearing; Permitting; CE Exceeding Level 1

2.) Right-of-Way Services

- A. Right-of-Way Management and Supervision
 1. CONSULTANT shall be responsible for administering, scheduling, and coordinating all activities necessary to certify right-of-way has been acquired and the project is clear for construction letting. This responsibility shall include:
 - a. Meetings, conferences, and communications with property owners, relocatees, attorneys, engineers, appraisers, buyers, LOCAL PUBLIC AGENCY, INDOT, and FHWA
 - b. Revisions to construction plans, plats, legal descriptions, and right-of-way stake-outs that may be required
- B. Abstracting
 1. Parcels with a fair market value of \$5,000 or more

- a. A documented preliminary title search is required covering an interval of time including one valid transfer of fee title beyond a 20-year period from the date of the search.
 - b. Each title search shall be updated, if necessary, and a Guaranty of Title issued in the amount of \$5,000.
- 2. Parcels with a fair market value of \$5,000 or less or Temporary Right-of-Way
 - a. A documented minimal title search by a title company, or
 - b. A verified last-deed-of-record search by SUBCONSULTANT
- C. Plats, Legal Descriptions, and Staking
 - 1. The CONSULTANT shall prepare metes and bounds legal descriptions and land plats for all acquisitions according to the INDOT Right-of-Way Engineering Manual and all applicable state of Indiana Codes, including, but not limited to, the following as applicable:
 - IC 32-1-2-37
 - IC 32-5-2-2
 - IC 36-2-19 Sections 4, 5, and 6
 - 2. The interpretation as to the specific requirements of these laws and regulations will be at the discretion of the LOCAL PUBLIC AGENCY and the CONSULTANT.
 - a. The legal descriptions shall be prepared and certified by an Indiana Registered Surveyor.
 - b. Each plat shall include the following.
 - i) Total area before taking
 - ii) Area of existing right-of-way
 - iii) Area of all residue
- D. Right-of-Way Staking
 - a. The CONSULTANT shall provide right-of-way stakeouts locating the new right-of-way line. The stakeout shall be made using wooden hubs located at changes in bearing and other points necessary to indicate the location of the right-of-way takings (including permanent and temporary right-of-way).

APPENDIX "B"

INFORMATION AND SERVICES TO BE FURNISHED BY THE LPA:

The LPA shall furnish the CONSULTANT with the following:

1. Criteria for design and details for signs, signals, lighting, highway and structures such as grades, curves, sight distances, clearances, design loading, etc.
2. Standard Specifications and standard drawings applicable to the project
3. All written views received by the LPA pertinent to the location and environmental
4. Traffic assignments, Traffic Signal Warrants (New Signal), Traffic Lighting Warrants (New Lighting)
5. Available data from the transportation planning process
6. Utility plans available to LPA covering utility facilities govern the location of signals and underground conduits throughout the affected areas
7. Provide access to enter upon public and private lands as required for the CONSULTANT to perform work under this Contract

APPENDIX "C"

SCHEDULE:

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

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

- A. Field Survey complete within 20 calendar days after receipt of notice to proceed from the LOCAL PUBLIC AGENCY.
- B. Environmental Services
 - 1. Preliminary submittal of the DRAFT Categorical Exclusion document within 180 days of notice to proceed by the LOCAL PUBLIC AGENCY.
 - 2. Revised Categorical Exclusion document within 30 calendar days after receipt of comments from the LOCAL PUBLIC AGENCY on the preliminary submittal of the document.
 - 3. Any necessary revisions within 20 calendar days after receipt of INDOT comments on the document.
 - 4. Furnish copies of the approved Categorical Exclusion document within ten calendar days after receipt of INDOT Concurrence.
 - 5. Submittal of the necessary permit applications to IDEM and USACE will occur within 30 days of the acceptance of Stage II plans or within ten days of final design considerations involving impacts to wetlands and/or "waters of the State."
- C. Roadway Design
 - 1. Stage I Plans for grade review and utility coordination within 90 calendar days after survey is complete.
 - 2. Stage III Plans within 90 calendar days after receipt Stage I Plan comments from the LOCAL PUBLIC AGENCY.
 - 3. Final Tracings with Cost Estimates and Special Provisions within 60 calendar days after receipt from the LOCAL PUBLIC AGENCY of approval of the Stage III Plans.

APPENDIX "D"

Compensation**A. Amount of Payment**

1. The CONSULTANT shall be compensated a total amount of \$127,543 for the following services to be performed under this Agreement on a lump-sum basis.

Task 1 Culvert Replacement at 151st Street - Des. No. 1500431

a)	Field Survey and Property Line Determination	\$10,013.00
b)	Environmental Services	\$13,030.00
c)	Road Design and Plan Development	
1.	Hydraulic Analysis & Culvert Design	\$7,700.00
2.	Guardrail Design & Road Plans	\$5,900.00
d)	Right of Way Services (Assume 2 Parcels)	
1.	Abstracting (\$400 each)	\$800.00
2.	Abstracting Updates (\$200 each)	\$400.00
3.	Plats and Legal Descriptions (\$2500 each)	\$5,000.00
4.	Right of Way Plan Sheets (\$300 each)	\$600.00
5.	Right of Way Plan LRS submittal (\$100 each)	\$200.0
6.	Right of Way Staking (\$700 each)	\$1,400.00

Task 1 Total **\$45,043.00**

Task 2 Pedestrian Curb Ramp Improvements - Des. No. 1500428

a)	Environmental Services	\$3,050.00
b)	Road Design and Plan Development	\$14,750.00
a)	Right of Way Services (Assume 1 Parcel)	\$4,200.00
	(\$4,200 Each - See Breakdown Above)	

Task 2 Total **\$22,000.00**

Task 3 Intersection Sight Distance Improvements - Des. No. 1500430

b)	Environmental Services	\$9,930.00
c)	Road Design and Plan Development	
1.	Develop Right-of-Way Limits	\$4,370.00
d)	Right of Way Services (Assume 11 Parcels)	
	(\$4,200 Each - See Breakdown Above)	\$46,200.00

Task 3 Total **\$60,500.00**

2. The CONSULTANT shall not be paid for any service performed by the LOCAL PUBLIC AGENCY or not required to develop this project.

B. Method of Payment

1. The CONSULTANT may submit a maximum of one invoice voucher per calendar month for work covered under this Agreement. The invoice voucher shall be submitted to the LOCAL PUBLIC AGENCY.

The invoice voucher shall represent the value, to the LOCAL PUBLIC AGENCY, of the partially completed work as of the date of the invoice voucher. The CONSULTANT shall attach thereto a summary of each pay item in Section A.1 of this Appendix, percentage completed and prior payments. From the partial payment thus computed, there shall be deducted all previous partial fee payments made to the CONSULTANT.

2. In the event of a substantial change in the scope, character or complexity of the work on the project, the maximum fee payable and the specified fee shall be adjusted in accordance with item 6, Changes In Work, of the General Provisions set out in this Agreement.



Task Description	Reimbursable Expenses		Estimated Hours and Category Rates				Total
	Mileage	Miscellaneous Prints, Fees, Shipping, etc	Director	Senior Project Mgr I - Engineering	Project Engr III	Designer III	
			\$ 178.72	\$121.59	\$104.91	\$113.66	
ROAD DESIGN/ENGINEERING SERVICES							
INDOT - STAGE 1 SUBMITTAL							
Check Survey/CADD Files				0	1	0	\$ 104.91
Review Location Control Survey/Plat I Centerline Alignment				0	1	0	\$ 104.91
Preliminary Title Sheet				0.5	1	0	\$ 165.78
Preliminary Index sheet				1	2	0	\$ 331.55
Preliminary Plan & Profiles				1	4	0	\$ 641.61
Culvert Hydraulic Analysis & Preliminary Details				0	0	0	\$ -
Preliminary Quantities				1	2	0	\$ 331.55
Preliminary Cost Estimate				1	2	0	\$ 331.55
Level 1, 2 & 3 Conformance				1	2	0	\$ 331.55
INDOT - STAGE 1 SUBMITTAL SUBTOTAL	\$ -	\$ -	0	5.5	15	0	\$ 2,243.45
INDOT - STAGE 2 SUBMITTAL							
Revise Plans & Address Stage 1 Review Comments				1	2	0	\$ 331.55
Final Title Sheet				0	1	0	\$ 104.91
Final Index Sheet				0	1	0	\$ 104.91
Final Plan & Profiles				0	6	0	\$ 629.68
Final Culvert Details				0	0	0	\$ -
Final Miscellaneous Tables				0	2	0	\$ 209.66
Final Pavement Marking & Sign Plan				1	2	0	\$ 331.55
Final Miscellaneous Details				1	1	0	\$ 226.57
Final Quantities				1	2	0	\$ 331.55
INDOT - STAGE 2 SUBMITTAL SUBTOTAL	\$ -	\$ -	0	4	17	0	\$ 2,271.02
INDOT - FINAL TRACINGS SUBMITTAL							
Revise Plans/Stage 3 Plan Review				1	2	0	\$ 331.55
Revise Quantities and Special Provisions				1	4	0	\$ 641.61
Revise Cost Estimate				1	1	0	\$ 226.57
Additional Final Tracings Documentation (Commitments, Traffic Control Plan etc.)				1	1	0	\$ 226.57
INDOT - FINAL TRACINGS SUBMITTAL	\$ -	\$ -	0	4	8	0	\$ 1,326.20
ROAD DESIGN/ENGINEERING SERVICES SUBTOTAL	\$ -	\$ -	0.00	13.50	43.59	0.00	\$ 5,900.00
TOTAL	\$ -	\$ -	0.00	13.50	43.59	0.00	\$ 5,900.00



Westfield Culvert Replacement
INDOT Des. No. 1500431

Task Description	Reimbursable Expenses		Estimated Hours and Category Rates				Total
	Mileage	Miscellaneous Prints, Fees, Shipping, etc.	Director	Senior Project Mgr I - Engineering	Project Engr III	Designer III	
			\$ 178.72	\$121.59	\$194.91	\$113.66	
ROAD DESIGN/ENGINEERING SERVICES							
INDOT - STAGE 1 SUBMITTAL							
Check Survey/CADD Files						0	\$ -
Review Locality Control Survey Plat / Centerline Alignment						0	\$ -
Preliminary Title Sheet						0	\$ -
Preliminary Index Sheet						0	\$ -
Preliminary Plan & Profiles						0	\$ -
Culvert Hydraulic Analysis & Preliminary Details				10	40	0	\$ 5,415.10
Preliminary Quantities						0	\$ -
Preliminary Cost Estimate						0	\$ -
Level 1, 2 & 3 Compliance						0	\$ -
INDOT - STAGE 1 SUBMITTAL SUBTOTAL	\$ -	\$ -	0	10	40	0	\$ 5,415.10
INDOT - STAGE 3 SUBMITTAL							
Revise Plans & Address Stage 1 Review Comments						0	\$ -
Final Title Sheet						0	\$ -
Final Index Sheet						0	\$ -
Final Plan & Profiles						0	\$ -
Final Culvert Details				4	17	0	\$ 2,271.02
Final Miscellaneous Tables						0	\$ -
Final Pavement Marking & Sign Plan						0	\$ -
Final Miscellaneous Details						0	\$ -
Final Quantities						0	\$ -
INDOT - STAGE 3 SUBMITTAL SUBTOTAL	\$ -	\$ -	0	4	17	0	\$ 2,271.02
INDOT - FINAL TRACINGS SUBMITTAL							
Revise Plans Stage 3 Plan Review						0	\$ -
Revise Quantities and Special Provisions						0	\$ -
Revise Cost Estimate						0	\$ -
Additional Final Tracings Documentation (Comments, Traffic Control Plan, etc.)						0	\$ -
INDOT - FINAL TRACINGS SUBMITTAL	\$ -	\$ -	0	0	0	0	\$ -
ROAD DESIGN/ENGINEERING SERVICES SUBTOTAL	\$ -	\$ -	0.00	14.00	57.00	0.00	\$ 7,700.00
TOTAL	\$ -	\$ -	0.00	14.00	57.00	0.00	\$ 7,700.00



MANHOUR JUSTIFICATIONS

Categorical Exclusion - Culvert Replacement - 151st Street, Westfield, IN
 INDOT Das. No. 1500431
 December 11, 2015

TASK	Estimated Hours and Category Rates					Total
	Dept. Director	SPM I - Envt.	Consultant II	Consultant III	Expenses	
	\$ 139.47	\$ 92.19	\$ 89.80	\$ 59.29		
Pub. Eng. Early Coordination, Environmental Site Visit		8	8	12		\$ 2,065.60
Wetland Determination/Delineation and Waters of the U.S. Determination	2	6	8	32	\$ 250.00	\$ 3,518.16
Section 106 Minor PA Determination		6				\$ 553.14
Archaeological Investigation					\$ 825.00	\$ 825.00
Write and Edit CE Document (Draft and Final)	7	25		20		\$ 6,123.09
Total	9	45	16	104		\$ 13,825.19

Strawberry Jet Number 15-0252 Task 1



Westfield ISD Improvements
INDOT Des. No. 1500430

Task Description	Reimbursable Expenses		Estimated Hours and Category Rates				Total
	MJeage	Miscellaneous Prints, Fees, Shipping, etc.	Director	Senior Project Mgr I - Engineering	Project Engr II	Designer III	
			\$ 178.72	\$121.59	\$104.98	\$113.66	
ROAD DESIGN/ENGINEERING SERVICES							
INDOT - STAGE 1 SUBMITTAL							
Develop Intersection Sight Lines at Each Intersection (assume 7 Intersections)	\$ -	-	0	7	14	18	\$ 4,366.73
INDOT - STAGE 1 SUBMITTAL SUBTOTAL	\$ -	\$ -	0	7	14	18	\$ 4,366.73
ROAD DESIGN/ENGINEERING SERVICES SUBTOTAL	\$ -	\$ -	10.00	7.00	14.00	18.00	\$ 4,370.00
TOTAL	\$ -	\$ -	0.00	7.00	14.00	18.00	\$ 4,370.00



MANHOUR JUSTIFICATIONS

Programmatic Categorical Exclusion - Intersection Sight Distance Improvements, Various Locations
Westfield, Hamilton County, IN
December 3, 2015

TASK	Estimated Hours and Category Rates					Total
	Dept Director	SPM I - Env.	PM II	Consultant II	Consultant I	
	\$ 120.47	\$ 92.18	\$ 81.44	\$ 69.63	\$ 59.29	
File Prep, Entry Coordinator, Environmental Site Visit		9		5	10	\$ 1,770.61
Section 106 Under PA Determination		8				\$ 737.52
Write and Edit CE Documents (Draft and Final)	2	20		12	40	\$ 7,419.24
Total CE Level I	2	47	0	17	50	\$ 9,927.37

Shenandoah Job 15-0256 Task 2



Westfield Curb Ramp Improvements
INDOT Des. No. 1500428

Task Description	Reimbursable Expenses		Estimated Hours and Category Rates				Total
	Mileage	Miscellaneous Prices, Fees, Shipping, etc.	Director	Senior Project Mgr I - Engineering	Project Engr III	Designer II	
			\$ 178.72	\$121.59	\$104.93	\$113.66	
ROAD DESIGN/ENGINEERING SERVICES							
INDOT - STAGE 1 SUBMITTAL							
Review GIS, Aerial Photographs, etc.				1	0	2	\$ 348.91
Preliminary TPO Sheet				1	0	1	\$ 235.25
Preliminary Index sheet				1	0	1	\$ 235.25
Preliminary Curb Ramp Details				4	12	40	\$ 6,292.62
Preliminary Miscellaneous Tables				1	2	0	\$ 331.65
Preliminary Quantities				1	2	4	\$ 766.19
Preliminary Cost Estimate				1	2	4	\$ 766.19
Level 1, 2 & 3 Conference				1	2	4	\$ 766.19
INDOT - STAGE 1 SUBMITTAL SUBTOTAL	\$ -	\$ -		11	20	56	\$ 9,802.05
INDOT - STAGE 2 SUBMITTAL							
Revise Plans & Address Stage 1 Review Comments				1	1	2	\$ 453.69
Final Title Sheet				1	3	1	\$ 650.19
Final Index Sheet				1	0	1	\$ 235.25
Final Curb Ramp Details				0	4	8	\$ 1,329.20
Final Miscellaneous Tables				0	1	1	\$ 218.64
Final Miscellaneous Details				0	1	1	\$ 218.64
Final Quantities				1	1	2	\$ 453.69
INDOT - STAGE 2 SUBMITTAL SUBTOTAL	\$ -	\$ -		4	11	16	\$ 3,469.70
INDOT - STAGE 3 SUBMITTAL							
Revise Plans Stage 3 Plan Review				1	2	2	\$ 658.87
Revise Quantities and Special Provisions				1	2	0	\$ 331.65
Revise Cost Estimate				1	1	0	\$ 226.67
Add Final Tracings Documentation (Commitments, Traffic Control Plan, etc.)		\$ 140.00		1	1	0	\$ 366.57
INDOT - FINAL TRACINGS SUBMITTAL	\$ -	\$ 140.00		4	6	2	\$ 1,483.36
ROAD DESIGN/ENGINEERING SERVICES SUBTOTAL	\$ -	\$ 140.00		19.00	37.00	74.00	\$ 14,760.00
TOTAL	\$ -	\$ 140.00	0.00	19.00	37.00	74.00	\$ 14,760.00

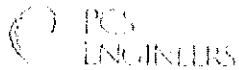


MANHOUR JUSTIFICATIONS

Programmatic Categorical Exclusion - Pedestrian Ramp Improvements, Various Locations
Westfield, Hamilton County, IN
December 3, 2015

TASK	Estimated Hours and Category Rates					Total
	Dist Director	SFM1 - Envt	Consultant B	Consultant J	Expenses	
	\$ 133.47	\$ 92.19	\$ 69.69	\$ 59.29		
Minor PA Determination - Documentation and supporting exhibits		6				\$ 253.14
PCE Document Preparation	2	3	15	12	\$ 200.00	\$ 2,492.69
Total Programmatic CE	2	9	15	12		\$ 3,048.93

Shredfinity Job 15-0258 Task 3



FEE JUSTIFICATION - City of Westfield 151st Street Culvert

CLIENT: Shrewsbury
PROJECT: 151st Culvert
DES. NO: 1509431, 1509428, 1509430
DATE: 11/4/2015 Revised 12/11/15

Prepared by: SW
Checked by: GN
Pending: 15-160

TOPOGRAPHIC SURVEY:								
Performed in Conjunction with the LCRS "Route Survey":								
Task	Task Budget	Principal	Project Manager	Project Surveyor	CAD Tech	Lead Crew Chief	Crew Chief	Admin Assist
2009 Prepare survey notices (4 properties)	\$295		1					
2100 Horizontal Control	\$829		1			4		
2400 Vertical Control	\$874			1		4		
2410 Utility locate request & field location	\$295			1		2		
2420 Data Collection for topo survey	\$913		1			8		
2450 Bridge estimates, culvert measurements & drawings	\$398			2		2		
2110 Data Processing Q/A and point files	\$206			2				
2300 Research	\$515			5				
2940 Plot Property Boundary Lines	\$351		1	2				
2120 CAD / Drafting	\$824			8				
2150 O.C. Field Check, PM Review submittals	\$496		2	2				
2210 Prepare Field Book	\$451		1	3				
Total Hours		0	7	26	0	20	4	2
Hourly Rate		\$210.00	\$145.00	\$103.00	\$88.00	\$96.00	\$96.00	\$75.00
Labor Total	\$6,147	\$0	\$1,015	\$2,678	\$0	\$1,920	\$384	\$150
LCRS								
Performed in Conjunction with the LCRS "Route Survey":								
Task	Task Budget	Principal	Project Manager	Project Surveyor	CAD Tech	Crew Chief	Crew Chief	Admin Assist
2120 CAD / Drafting	\$969		1	8				
2350 Survey Plat & Report, document recording	\$1,366		8	2				
2330 Section Corner & additional monument locations	\$873		2	1		5		
2510 Alignment	\$454		1	3				
Total Hours		0	12	14	0	5	0	0
Hourly Rate		\$210.00	\$145.00	\$103.00	\$88.00	\$96.00	\$96.00	\$75.00
Labor Total	\$3,662	\$0	\$1,740	\$1,442	\$0	\$480	\$0	\$0
DIRECT EXPENSES								
Item	Task Budget	Quantity	Unit	Cost Unit	Total Cost			
Mileage 28 miles one way - 4 trips for the field crew and one additional trip for research	\$157	280	Mile	\$0.56	156.80			
Hotel at \$59 / night	\$0		Night	\$59.00	0.00			
Per diem, N. days for two employees	\$0		Day	\$52.00	0.00			
Postage for survey notices	\$5	4	Each	\$2.69	8.00			
LCRS recording fees, \$20 / for the initial page	\$40	2	Page	\$20.00	40.00			



FEE JUSTIFICATION - City of Westfield 151st Street Culvert

CLIENT Sitewherry
PROJECT 151st Culvert
DES. NO. 1500431, 1500428, 1500430
DATE 11/4/2015 Revised 12/1/15

Prepared by: SW
Checked by: GN
Pending: 15-160

LCRS recording fees, \$5 for additional pages	\$5	1 Page	\$5.00	4 LCR
Expense Total	\$204			
TOTAL FEE	\$10,013			
SCOPE				
Brief Description of Project:				
PCS Engineers will provide a topographic survey and a Route Survey of the area along 151st Street in Westfield, Indiana as depicted on the attached aerial. The site is approximately 750 feet east-west and varies from 70 feet to 200 feet wide. This estimate is based on "off leaf" conditions; additional fees will be required if this project is completed during an "on leaf" season. Prepare a Route Survey Plot and Report complying with Rule 12, Title IAC 865.				
Specific Scope as follows: Topographic Survey				
2030 Prepare survey notices for approximately 4 properties				
2100 Provide Horizontal Control based on SPC IN East Zone (NAD83) (2011). Provide reference ties for most control points.				
2400 Provide Vertical Control based on DNR Bench Mark "1EE 6 AZ" located approximately 0.5 miles east of site. If this monument does not exist, this fee will be modified.				
2410 Contact Indiana 811 for utility locations within the survey limits. Utility locations is based on ground markings by others or record drawing. The completeness and accuracy of the information provided to PCS and shown on any submittals can not be guaranteed.				
2420 Collect general topography within the survey limits, including above ground evidence of utilities, storm and sanitary structures.				
2450 Existing culvert measurements and sketches.				
2110 Process field data and import to AutoCAD Civil 3D.				
2390 Research list deed of record for land owners within the survey limits.				
2940 Plot property boundary lines. Plot right of way as determined by the governing agency. Title & encumbrance reports are not included in this fee.				
2120 Prepare drawing and surface in AutoCAD Civil 3D.				
2150 Conduct field check and project manager review (QC/QA).				
2210 Prepare field survey book.				
Specific Scope as follows: Route Survey				
2120 Route Plot drafting.				
2350 Prepare surveyor's reports and plot. Record LCRS in the office of the Hamilton Co. Recorder.				
2330 Locate and reference section corners as needed.				
2510 Establish alignment (alignment will be established along section line if possible).				
DELIVERABLE:				
PCS Engineers will provide the topographic data in electronic format, using AutoCAD Civil 3D, the submission for the Topographic Survey will be an electronic drawing only. Sheets with borders, title blocks etc. is NOT part of this fee. Culvert sketches and details will be part of the field book.				
SCHEDULE:				
The survey schedule will be determined once the Notice to Proceed (NTP) is granted.				



FEE JUSTIFICATION
151st Street, City of Westfield
Right of Way Development

CLIENT: Shrewsbury
PROJECT: 151st Street
DES NO:
DATE: 11/4/2015

Prepared by SW
Checked by GN
Principal

Right of way
Right of way engineering = \$2500 per parcel plat (INDOT compliant)
Right of way plan sheets = \$300 per parcel plat (INDOT compliant)
Right of way plan LRS submittal = \$100 per parcel (INDOT compliant)
Right of way plan Staking= \$700 per parcel (INDOT compliant)
SCOPE: Scope / Deliverable (INDOT Right of Way)
<u>Right of way Engineering:</u> PCS Engineers, will provide the following: -An exhibit showing the existing land with the proposed area to be acquired by the Governmental Entity. -Provide the client with a boundary description describing the proposed area to be acquired -Coordination with the client.
<u>Right of way Plans:</u> PCS Engineers, will provide the client with INDOT compliant preliminary right of way plan sheets, including a plan sheet check list. This fee is based on a "one time" submittal. If the design is modified and revised after the submittal then this fee will be modified. This fee is based on the client providing the electronic plan sheets for PCS Engineers use.
<u>LRS submittal:</u> PCS Engineers, will provide the electronic submittal into the LRS system. This fee is based on a one time submittal, if additional submittals are required this fee will be revised.
<u>Staking Right of way:</u> Staking parcels for proposed acquisition per INDOT Standards. This fee is based on a minimum staking of 5 parcels per trip. If staking 1-4 parcels at a time is required then this fee will be revised. <u>This fee does NOT include Title Search.</u>
SCHEDULE
The schedule will be determined after the Notice to Proceed (NTP) is granted.