

STATE BOARD OF ACCOUNTS
302 West Washington Street
Room E418
INDIANAPOLIS, INDIANA 46204-2769

SUPPLEMENTAL COMPLIANCE REPORT

OF

CITY OF WARSAW

KOSCIUSKO COUNTY, INDIANA

January 1, 2016 to December 31, 2017



FILED
02/19/2019

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SCHEDULE OF OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Clerk-Treasurer	Lynne A. Christiansen	01-01-12 to 12-31-19
Mayor	Dr. Joseph M. Thallemer	01-01-12 to 12-31-19
President of the Board of Public Works and Safety	Dr. Joseph M. Thallemer	01-01-12 to 12-31-19
President Pro Tempore of the Common Council	Michael J. Klondaris Diane L. Quance	01-01-16 to 12-31-17 01-01-18 to 12-31-19



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF THE CITY OF WARSAW, KOSCIUSKO COUNTY, INDIANA

This report is supplemental to our audit report of the City of Warsaw (City), for the period from January 1, 2016 to December 31, 2017. It has been provided as a separate report so that the reader may easily identify any Audit Results and Comments that pertain to the City. It should be read in conjunction with our Financial Statement Audit Report of the City, which provides our opinion on the City's financial statement. This report may be found at www.in.gov/sboa/.

As authorized under Indiana Code 5-11-1, we performed procedures to determine compliance with applicable Indiana laws and uniform compliance guidelines established by the Indiana State Board of Accounts. The Audit Results and Comments contained herein describe the identified reportable instances of noncompliance found as a result of these procedures. Our tests were not designed to identify all instances of noncompliance; therefore, noncompliance may exist that is unidentified.

Any Official Response to the Audit Results and Comments, incorporated within this report, was not verified for accuracy.

Paul D. Joyce
Paul D. Joyce, CPA
State Examiner

February 6, 2019

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BOARD OF PUBLIC WORKS AND SAFETY
CITY OF WARSAW

BOARD OF PUBLIC WORKS AND SAFETY
CITY OF WARSAW
AUDIT RESULTS AND COMMENTS

PUBLIC WORKS PROJECT - 300 NORTH TRAIL

The City entered into a Public Works contract of \$897,772 on December 14, 2016, for the 300 North Trail project. In February 2017, prior to the commencement of the actual construction, issues were raised related to lighting and pavement markings and the contractor and engineer revised the original plans and provided cost estimates for the additional work.

On November 22, 2017, the date of the final invoice for the completed contract, a change order of \$250,880 was submitted from the Planning and Zoning Department. The change order exceeded the original contract by 28 percent. Unforeseen expenses of \$46,262 were noted within the total change order; however, the remaining foreseen expenses surpassed the original contract by 23 percent. The Board of Public Works and Safety approved the change order on November 28, 2017.

Indiana Code 36-1-12-18 states:

"(a) If, in the course of the construction, reconstruction, or repair of a public work project, it becomes necessary to change or alter the original specifications, a change order may be issued to add, delete, or change an item or items in the original contract. The change order becomes an addendum to the contract and must be approved and signed by the board and the contractor.

(b) If a licensed architect or engineer is assigned to the public work project, the change order must be prepared by that person.

(c) A change order may not be issued before commencement of the actual construction, reconstruction, or repairs except in the case of an emergency. In that case, the board must make a declaration, and the board's minutes must show the nature of the emergency.

(d) The total of all change orders issued that increase the scope of the project may not exceed twenty percent (20%) of the amount of the original contract. A change order issued as a result of circumstances that could not have been reasonably foreseen does not increase the scope of the project.

(e) All change orders must be directly related to the original public work project.

(f) If additional units of materials included in the original contract are needed, the cost of these units in the change order must be the same as those shown in the original contract."

PUBLIC WORKS PROJECT - ALLEY WAY

The City entered into a Public Works contract of \$47,400 on June 2, 2017, for the Alley Way project. The Alley Way project was funded through donations collected by Patronicity, a civic crowdfunding and crowdgranting platform, and a \$50,000 CreatiNG Places matching grant from the Indiana Housing and Community Development Authority (IHCDA). The total amount obtained for the Alley Way project was \$106,504.

BOARD OF PUBLIC WORKS AND SAFETY
CITY OF WARSAW
AUDIT RESULTS AND COMMENTS
(Continued)

The IHEDA matching grant was based on matching donations up to \$50,000 that Patronicity collected. The IHEDA grant agreement was verbally approved on May 9, 2017, and May 10, 2017, by three of the Board of Public Works and Safety members. On May 22, 2017, the Board of Public Works and Safety publically approved the IHEDA grant agreement.

Prior to the City being awarded the matching grant, the City requested an estimate from a general contractor for construction work on the Alley Way project. The City received an estimate from the general contractor dated February 11, 2017, which contained a total estimated cost of \$65,650. After the City was notified of meeting the matching grant requirements, the City requested an estimate from the same general contractor to take out enough material costs to make the contract less than \$50,000. The general contractor removed several material costs based on the estimate dated February 11, 2017, to reduce the contract below \$50,000.

On May 30, 2017, three Board of Public Works and Safety members gave verbal approval to the contract so that the City could start ordering materials. On June 2, 2017, the Board of Public Works and Safety met publically to approve the contract with the general contractor for \$47,400.

Indiana Code 36-1-12-4.7 states in part:

"(a) . . . whenever a public work project is estimated to cost: . . . at least fifty thousand dollars (\$50,000) and less than one hundred fifty thousand dollars (\$150,000) . . .

(b) The board must proceed under the following provisions:

- (1) The board shall invite quotes from at least three (3) persons known to deal in the class of work proposed to be done by mailing them a notice stating that plans and specifications are on file in a specified office. The notice must be mailed not less than seven (7) days before the time fixed for receiving quotes.
- (2) The board may not require a person to submit a quote before the meeting at which quotes are to be received. The meeting for receiving quotes must be open to the public. All quotes received shall be opened publicly and read aloud at the time and place designated and not before.
- (3) The board shall award the contract for the public work to the lowest responsible and responsive quoter. . . ."

Indiana Code 36-1-12-19(b) states: "The cost of a single public work project may not be divided into two (2) or more projects for the purpose of avoiding the requirement to solicit bids."

Indiana Code 5-14-1.5-3(a) states: "Except: as provided in section 6.1 of this chapter, all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them."



CITY OF WARSAW

Joseph M. Thallemer, Mayor

www.warsaw.in.gov • 102 S. Buffalo Street, Warsaw, IN 46580 • Phone: (574) 372-9595 • Fax: (574) 372-9596

February 11, 2019

State Board of Accounts
Mr. Paul Joyce, CPA, State Examiner
302 West Washington St.
Room E 418
Indianapolis, IN 46204-2765

OFFICIAL RESPONSE
CITY OF WARSAW, INDIANA
PUBLIC WORKS PROJECT - 300 NORTH TRAIL

Dear Mr. Joyce:

The City of Warsaw offers the following official response concerning the State's audit findings associated with the 2017 300 North Trail Project.

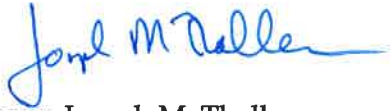
The Warsaw Redevelopment Commission completed the design work and bid out the 300 North Trail Project in late 2016 for the 2017 construction season. In early February of 2017, City Planning Director, Jeremy Skinner was approached by Ivy Tech concerning issues associated with the existing lighting along Polk Drive and pavement markings on Silveus Crossing. On February 22nd, 2017 Skinner met onsite with Ivy Tech's Facilities Director and Campus President to discuss their concerns associated with the safety of their students coming to and from the Ivy Tech Campus. At that point they shared their concerns with the lack of sufficient lighting along Polk Drive and the need for designated turn lane markings on Silveus Crossing.

The Redevelopment Commission held a pre-construction meeting with the contractor on February 24th, 2017 at which time the contractor and engineer were asked to revise the plans and present cost estimates for the additional lighting and pavement markings. From March through May the project engineer updated the plans and cost estimates associated with the additional work requested along Polk Drive and Silveus Crossing. After reviewing the proposed additional cost and weighing the safety concerns express by Ivy Tech, the additional safety features were added to the existing contract. Those additional roadway and lighting improvements exceeded the 20% allowed for change orders per the contract. The City of Warsaw is of the opinion that this change order was issued as a result of circumstances that could have not been reasonably foreseen, and therefor does not increase the scope of the project to exceed twenty percent of the original contract. Certainly, had the Redevelopment Commission been aware of the safety concerns presented by Ivy Tech prior to bidding the project, the plans would have reflected those improvements needed to address their safety issues. However,

concerns were not expressed until more than two months after the project was awarded. Despite these unforeseen circumstances, the Redevelopment Commission felt it necessary to complete the improvements needed to address the safety issues, as well as not create additional cost for mobilization, construction delays, and repairs associated with bidding the additional work at a later date.

If you have any questions, please feel free to contact me.

Sincerely,



Mayor, Joseph M. Thallemer
City of Warsaw, Indiana



CITY OF WARSAW

Joseph M. Thallemer, Mayor

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February 11, 2019

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OFFICIAL RESPONSE
CITY OF WARSAW, INDIANA
PUBLIC WORKS PROJECT - ALLEY WAY

Dear Mr. Joyce:

The City of Warsaw offers the following official response concerning the State's audit findings associated with the 2017 Alley Way Project.

Warsaw began working on the Alley Way Project in 2016 in conjunction with the IHCD's Creating Places Program. As the project was developed, the City sought out cost estimates for various components of the project, including the work that would be completed by a contractor. All of the various components to the project needed to fall within the project budget of \$100,000 set by the \$50,000 maximum grant match. The initial cost estimate associated with that portion of the project to be contracted out exceeded the roughly \$48,000 set aside for that scope of the work. All of the remaining components of the Alley Way project were expected to cost around \$52,800. With the requested estimate for contracted work coming in at over \$65,000, that left the current project budget \$17,000 higher than the existing grant funding level. In an attempt to reduce the cost estimate of the contracted work, as all of the remaining components were one-off items or not large enough to reduce the contract, the City reduced the scope of the contracted work to fall in line with the grant funding restraints.

After reducing the contracted portion of the project to around \$48,000 as originally projected for the scope of work to be completed, the City proceeded with soliciting and contracting with a contractor to complete the work based on the applicable Indiana Code at the end of May of 2017.

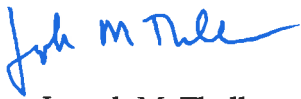
It is the City's opinion that the City did not violate Indiana Code in soliciting a proposal in May 2017 after reducing the scope of work and costs from an estimate received in February of 2017 for a project which had not had the scope and cost finalized. From February 2017 to the beginning of May 2017, the City was working towards completing the project scope and cost estimate. At the end of March

2017 until the beginning of May 2017, the City was actively participating in the IHCDAs' Creating Places Program. The project scope was finalized based on the amount of funding available at the completion of the grant program in early May of 2017. After the completion of the grant program and finalizing the project scope, which included a reduction in the amount of contracted work based on the funds available for the project, the City followed the applicable Indiana Code in selecting a contractor.

The City reduced the project scope in order to match the available funds and not exceed the \$50,000 threshold and then sought a proposal for the project. A contract was approved in late May/early June for \$47,400 and at no point during construction did the contract exceed \$50,000. By virtue of the contract being under \$50,000 and not exceeding \$50,000 during construction, the City could not have violated Indiana Code 36-1-12-4.7.

If you have any questions, please feel free to contact me.

Sincerely,



Mayor, Joseph M. Thallemer
City of Warsaw, Indiana

BOARD OF PUBLIC WORKS AND SAFETY
CITY OF WARSAW
EXIT CONFERENCE

The contents of this report were discussed on February 6, 2019, with Dr. Joseph M. Thallemer, Mayor; Lynne A. Christiansen, Clerk-Treasurer; Diane L. Quance, President Pro Tempore of the Common Council; Jerry Frush, Common Council member; Jeremy Skinner, City Planner; Kelly Geiger, Deputy Clerk-Treasurer; and Scott E. Reust, City Attorney.