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CROSS REFERENCE: 2013-051287

2013 051288

CZ1  
CTIC# 463081A MJS

**EASEMENT AGREEMENT**

This Easement Agreement (the "**Agreement**") is executed as of June 14, 2013 (the "**Effective Date**") by the INDIANA DEPARTMENT OF TRANSPORTATION, duly created and existing under and by virtue of Indiana Code 8-23, as amended ("**INDOT**") as an administrative department of the State of Indiana (the "**State**"), and CLINE AVENUE BRIDGE LLC, a Delaware limited liability company ("**CAB**").

**WITNESSETH**

WHEREAS, INDOT and CAB entered into that certain Amended and Restated Exchange Agreement dated as of December 31, 2012 (the "**Exchange Agreement**"), whereby INDOT has agreed, among other things, to exchange certain real property owned by INDOT, which real property is more particularly described in that certain Quitclaim Deed recorded \_\_\_\_\_, 2013, as Instrument No 2013-051287 in the office of the Recorder of Lake County, Indiana (the "**Quitclaim Deed**"), for certain real property conveyed by INDOT to CAB and now owned by CAB;

WHEREAS, the Exchange Agreement provides for INDOT to retain, and/or receive, certain easements from CAB necessary for INDOT to continue to operate existing drainage facilities, and to utilize existing facilities contained within that portion of the real property described in the Quitclaim Deed situated west of the Indiana Harbor Canal, as depicted on Exhibit "A" attached hereto (such real property being hereinafter referred to as the "**Cline Avenue Bridge Parcel**"), all as more particularly described herein;

WHEREAS, as of the Effective Date, the exchange contemplated by the Exchange Agreement will have been consummated, and, as of the Effective Date, CAB is the owner of the Cline Avenue Bridge Parcel;

WHEREAS, INDOT is the owner of certain real property proximate to the Cline Avenue Bridge Parcel upon which a lift station is located, such real property being more particularly described in Exhibit "B" attached hereto and as depicted on Exhibit "B-1" (the "**Lift Station Parcel**");

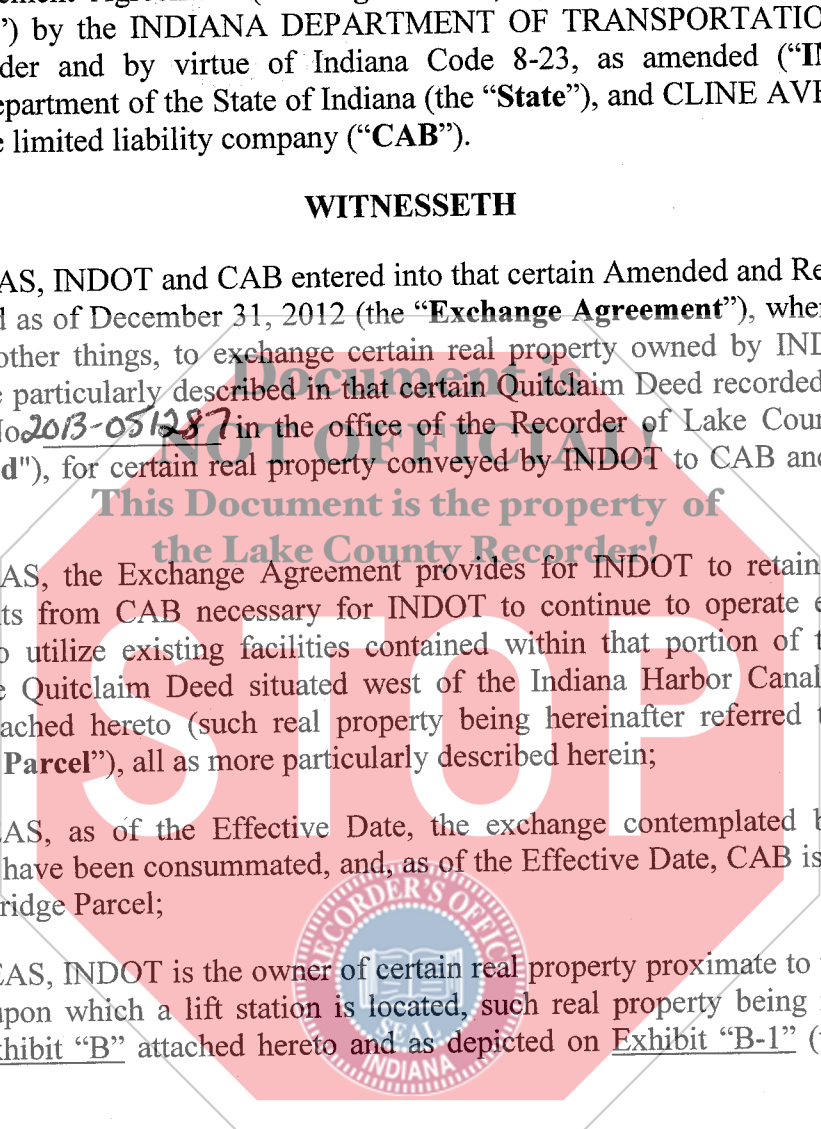
WHEREAS, the Cline Avenue Bridge Parcel currently contains within a portion of the same certain underground culverts and/or pipes, and certain equipment and/or fixtures appurtenant thereto necessary to operate the same for its intended purpose ("**Utilities**"), such Utilities being located in the approximate location more particularly depicted in Exhibit "A" attached hereto and as described on Exhibit "A-1", providing drainage for the former Cline

**13652**

PEGGY HOLINGAKATONA  
LAKE COUNTY AUDITOR

1 Ref

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CR# 7104  
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STATE OF INDIANA  
LAKE COUNTY  
RECORDED FOR RECORD  
MAY 16 AM 9:00  
MICHAEL B. BROWN  
RECORDER

Avenue Bridge and for other properties in the area, some of which are owned by, or operated by, INDOT, which Utilities connect to the lift station and other storm water related improvements located upon the Lift Station Parcel, then cross the Cline Avenue Bridge Parcel, draining into the Indiana Harbor Canal, and INDOT shall herein be granted a perpetual easement to provide INDOT with continued, uninterrupted use of the Utilities for the purposes more particularly provided for herein, subject to the provisions hereof;

WHEREAS, the grant of the Sewer Easement (defined below) by CAB in favor of INDOT is not anticipated to materially interfere with CAB's construction and operation of the new bridge to be constructed across the Indiana Harbor Canal by CAB to restore vehicular traffic flow along State Road 912 (the "**New Bridge**"); and

WHEREAS, in order to preserve the perpetual nature of the Sewer Easement being granted hereby, this Easement Agreement shall be recorded immediately after the Quitclaim Deed, and prior to the recording of any mortgages or other encumbrances, the failure of which CAB hereby agrees shall constitute a material breach of the Exchange Agreement.

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration the receipt of which is hereby acknowledged, INDOT and CAB agree as follows:

1. CAB hereby grants to INDOT a perpetual, non-exclusive easement over, across, under and/or through the Cline Avenue Bridge Parcel for the purpose of, and to allow INDOT to connect to and utilize, and to the extent not properly maintained, repaired and/or replaced by CAB at any time as required herein, to maintain, repair and/or replace, the Utilities for the continued and uninterrupted drainage of storm water from the Lift Station Parcel and other properties in the area including those owned by, or operated by, INDOT, in accordance with the terms of this Agreement (the "**Sewer Easement**").

(a) Subject to the provisions of Sections 1(b) and 1(d) of this Agreement, CAB agrees to provide INDOT with uninterrupted use of the Utilities within the Sewer Easement in accordance with the terms of this Agreement; provided, however, that the total area drained under the Sewer Easement does not exceed approximately nine acres and the volume of storm water discharged through the Utilities does not exceed 24 cubic feet per second at the peak of the ten year storm flowing into the Utilities along the border of the Cline Avenue Bridge Parcel and the Lift Station Parcel with a time concentration of thirty five minutes (the "**INDOT Drainage Limit**").

(b) CAB, at its sole cost and expense, shall maintain, repair and/or replace the Utilities located on the Cline Avenue Bridge Parcel, and shall keep the portion of the Utilities located on the Cline Avenue Bridge Parcel, in good operating condition at all times. CAB shall maintain the Utilities at all times in compliance with all applicable ordinances, laws, statutes, codes and other regulations of local, state and federal governments. When performing any such maintenance, repair or replacement work on the Utilities, in the event such work will temporarily impair INDOT's use or enjoyment of the rights granted hereunder, CAB agrees to provide temporary storm water drainage with capacity no less than the INDOT Drainage Limit.

(c) INDOT, at its sole cost and expense, shall maintain, repair and/or replace all underground culverts and/or pipes, lift stations and other equipment and or fixtures located on the Lift Station Parcel and other INDOT owned properties that have the right to utilize the Utilities to drain storm water under this Agreement and shall keep the improvements located on INDOT owned properties and that INDOT uses to connect to the Utilities in good operating condition at all times. INDOT shall maintain the storm water related improvements on its property at all times in compliance with all applicable ordinances, laws, statutes, codes and other regulations of local, state and federal governments. Notwithstanding Section 1(b), INDOT shall be solely responsible for the cost of any repairs, replacements, modifications, alterations or additions to the Utilities, and any replacements, modifications or repairs to any other improvements located on or under the Cline Avenue Bridge Parcel directly necessitated by INDOT's discharge of water through the Sewer Easement in excess of the INDOT Drainage Limit which results in insufficient capacity to accommodate the drainage of the New Bridge; provided, however, that except in case of emergency, INDOT shall be provided with prior written notice that INDOT has exceeded the INDOT Drainage Limit to an extent that the Utilities cannot accommodate the drainage demands of the New Bridge, and, if it is reasonably foreseeable INDOT's discharge of water will exceed the INDOT Drainage Limit to an extent the Utilities cannot also accommodate the drainage of the New Bridge, INDOT shall, at INDOT's sole cost and expense, and within a reasonable period of time after receipt of such notice, perform the necessary work to rectify the situation, provided, if INDOT does not timely rectify the situation, CAB shall have the right to perform such work.

(d) Except in the case of work performed pursuant to Section 1(b) of this Agreement, CAB shall be, and is, prohibited from altering, relocating, impairing, damaging or removing the Utilities in any manner which will eliminate or impair INDOT's rights hereunder; provided, however, that if CAB determines in its sole discretion that it is desirable or necessary to relocate any part of the Utilities within the Cline Avenue Bridge Parcel in order to construct the New Bridge, CAB shall have the right to relocate such Utilities at CAB's sole cost and expense (the "**Relocation Rights**"). Before exercising the Relocation Rights, CAB shall provide written notice to INDOT, which shall include plans and specifications for relocating the Utilities that include (i) temporary storm water drainage for the Lift Station Parcel and other properties currently utilizing the Utilities in a capacity equal to the INDOT Drainage Limit, and (ii) storm water discharge capabilities after relocation equal to or exceeding the capabilities of the Utilities as of the Effective Date. CAB shall implement the relocation of the Utilities in material accordance with the plans and specifications and its obligations in the last sentence of Section 1(b) provided to INDOT. CAB's exercise of the Relocation Rights are not subject to INDOT's prior approval.

2. In the event of default by a party hereto in its obligations under this Agreement, the non-defaulting party may sue for specific performance of such obligation, or pursue any other legal or equitable remedy available to such non-defaulting party. In the event INDOT's use of the Utilities is interrupted or materially impaired such that the available capacity is insufficient for INDOT's storm drainage, INDOT shall have the right, upon ten (10) business days prior written notice to CAB (other than in the case of emergency for which no notice shall

be required), to enter the Cline Avenue Bridge Parcel to repair and/or replace, as necessary, the Utilities to restore sufficient drainage, all at CAB's sole cost and expense; provided, however, that not less than ten (10) business days prior to entering the Cline Avenue Bridge Parcel, INDOT shall provide CAB with proof of commercially reasonable insurance for any work to be performed by INDOT contractor. In the event INDOT self performs the aforementioned work, INDOT shall not be required to provide proof of insurance. INDOT further covenants and agrees that it shall not create, permit to be created or suffer the creation of any liens encumbering the Cline Avenue Bridge Parcel arising out of, or as a result of any work performed on the Cline Avenue Bridge Parcel pursuant to its rights hereunder.

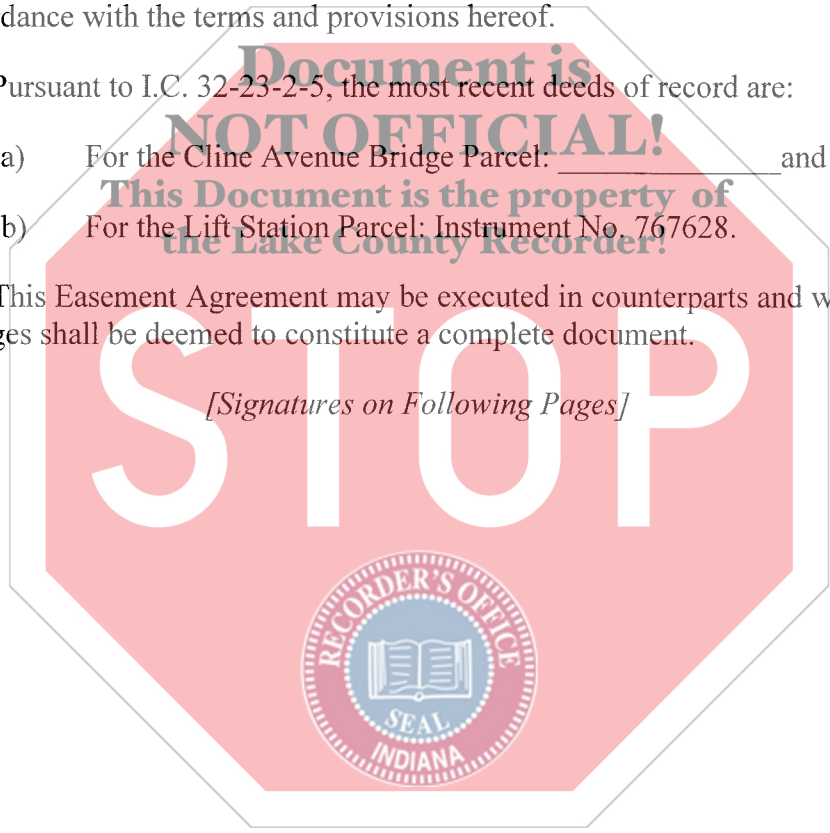
3. The Sewer Easement shall be appurtenant to and for the benefit of all or any part of the Lift Station Parcel and other real property owned by INDOT or other real property adjacent to the Cline Avenue Bridge Parcel over which INDOT maintains a public right of way which is adjacent to the Cline Avenue Bridge Parcel (collectively, the "**INDOT Property**"), and the use and enjoyment thereof by the present and future owners of the INDOT Property, and their nominees, successors and assigns in ownership or possession and the guests, invitees and employees of all or any part of the foregoing. The Sewer Easement is intended to be permanent and shall run with the land and shall continue for so long as the purpose of such easement is required by INDOT, in INDOT's sole discretion, or being utilized by INDOT's successors or assigns in accordance with the terms and provisions hereof.

4. Pursuant to I.C. 32-23-2-5, the most recent deeds of record are:

- (a) For the Cline Avenue Bridge Parcel: \_\_\_\_\_ and
- (b) For the Lift Station Parcel: Instrument No. 767628.

5. This Easement Agreement may be executed in counterparts and when so executed the multiple pages shall be deemed to constitute a complete document.

*[Signatures on Following Pages]*



IN WITNESS WHEREOF, the undersigned executed and delivered this Easement Agreement on the date set forth below.

“CAB”

CLINE AVENUE BRIDGE, LLC

By: United Bridge Partners, a Delaware limited partnership, its Manager

By: Linda Figg

Name: LINDA FIGG

Title: PRESIDENT

COUNTY OF Leon

STATE OF Florida

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Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Linda Figg, the President of United Bridge Partners, the Manager of Cline Avenue Bridge, LLC, who acknowledged the execution of the foregoing Easement Agreement for and on behalf of said company on the date of its execution set forth above.

WITNESS my hand and Seal this 17 day of June, 2013.

My Commission Expires:

2/28/17

Sondra Teresa Hall, Notary Public  
Resident of Leon County, ~~Indiana~~ Florida

SONDRA TERESA HALL  
Commission # EE 877929  
Expires February 28, 2017  
Bonded Thru Troy Fain Insurance 800-385-7019



“INDOT”

INDIANA DEPARTMENT OF  
TRANSPORTATION

By: Michael B. Cline  
Michael B. Cline, Commissioner

Date: 6-18-13

COUNTY OF MARION )  
                                  ) SS:  
STATE OF INDIANA )

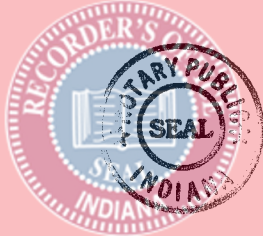
Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Michael B. Cline, the Commissioner of the Indiana Department of Transportation, who acknowledged the execution of the foregoing Basement Agreement for and on behalf of the Indiana Department of Transportation on the date of its execution set forth above.

WITNESS my hand and Seal this 18th day of June, 2013.

My Commission Expires:

10/31/19

Jenny B. Ziemer  
Jenny B. Ziemer, Notary Public  
Resident of Hendricks County, IN



Approved as to form and legality:

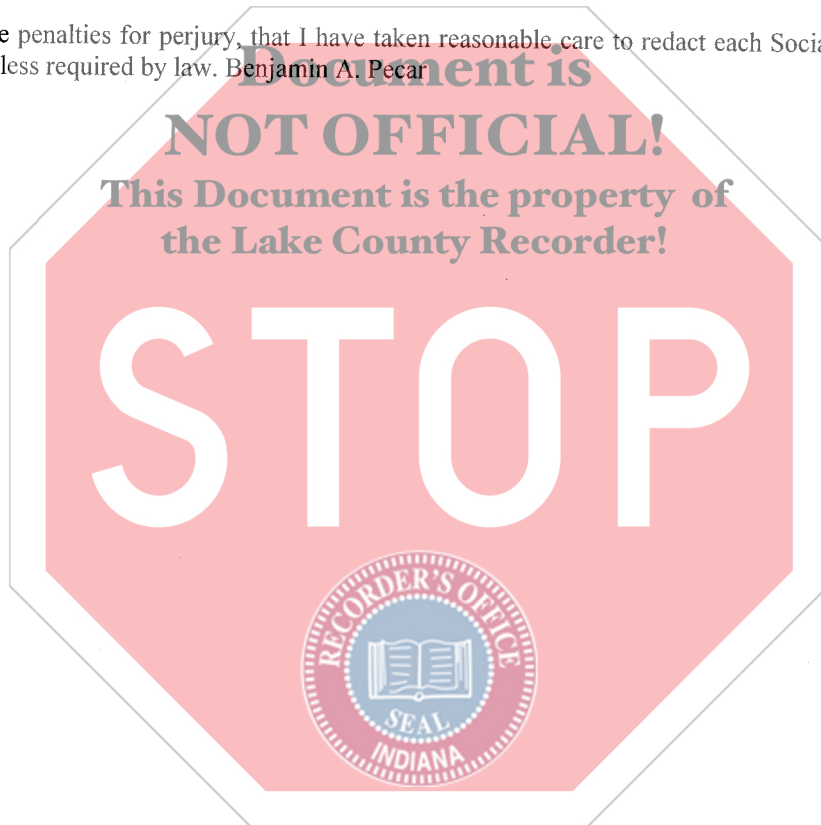
ATTORNEY GENERAL OF THE STATE OF  
INDIANA

By:                     *Matt Rylor*                      
Greg Zoeller, Attorney General

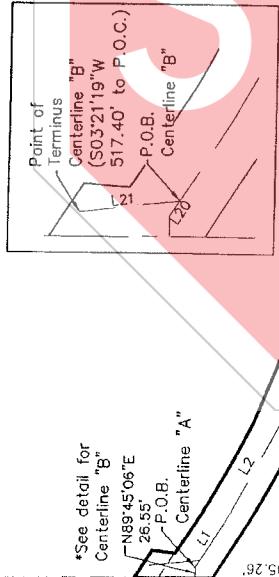
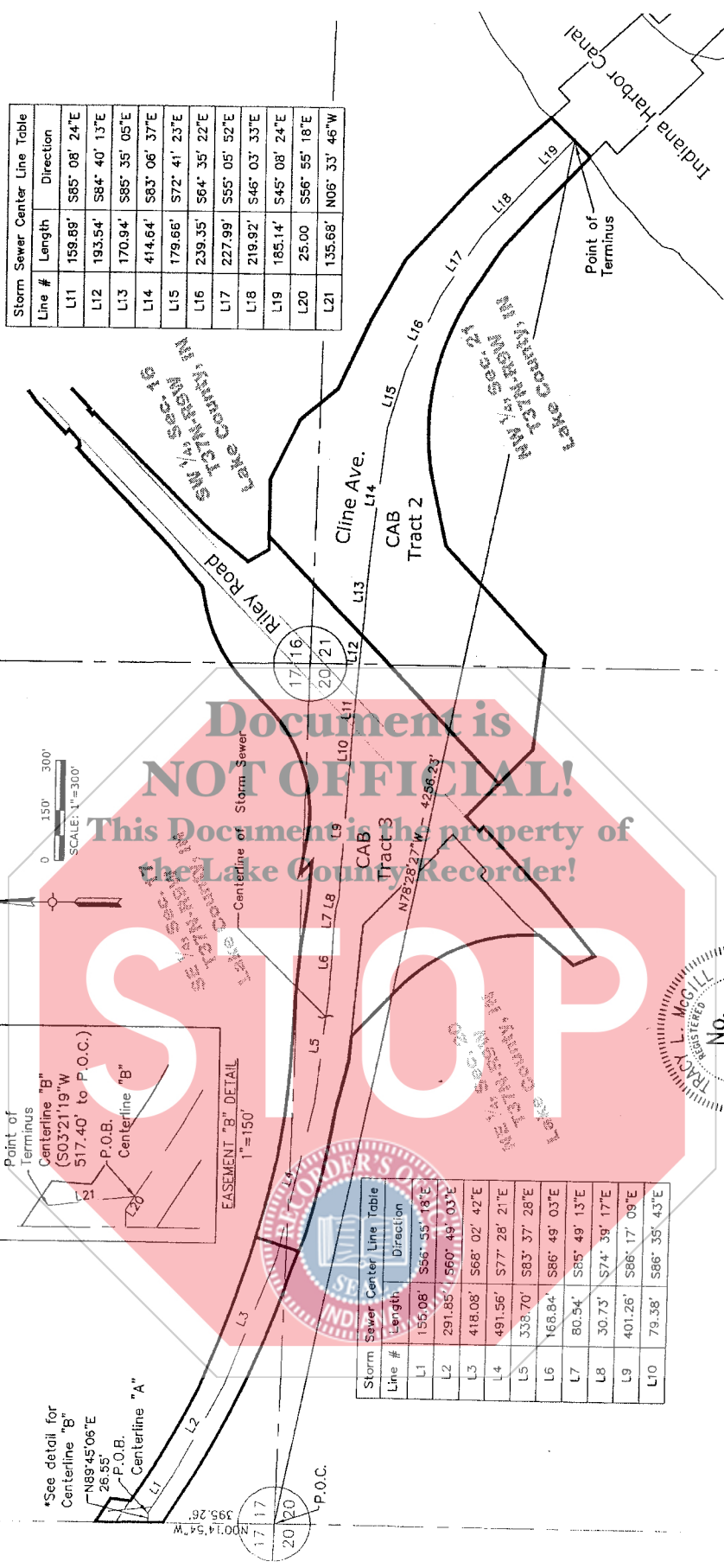
Date:                     6/19/13                    

This instrument was prepared by Benjamin A. Pecar, Barnes & Thornburg LLP, 11 South Meridian Street, Indianapolis, IN 46204, (317) 236-1313.

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Benjamin A. Pecar

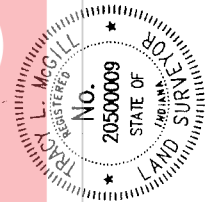


EASEMENT AGREEMENT EXHIBIT A



FILED BY: 4/27/13 EDITED BY: HRCGJL DRAWING FILE: P:\2012\00849\SW\2012-04-17\EXH STORM.DWG DRAWINGS SOURCE: M:\MIDWEST\TOMM SEWER EASEMENT\201200849.SW 2012-04-17 11:23 AM

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I affirm, under penalties for perjury, that I have taken reasonable care to recast each Social Security number in this document, unless required by law.

AMERICAN  
**STRUCTUREPOINT**  
INC.

7260 SHADELAND STATION  
INDIANAPOLIS, IN 46256-3957  
TEL 317.547.9550 FAX 317.543.0270  
www.structurepoint.com

SCALE: 1"=300'  
DATE: 06/07/2013  
DRAWN BY: TLM  
JOB NO. 2012.00849  
SHEET NO. 1 OF 1



EXHIBIT "A-1"  
Legal Description of Storm Sewer Line

EASEMENT "A" DESCRIPTION

A Storm Sewer Pipe, located in the Southeast Quarter of Section 17, the Northeast Quarter of Section 20 and the Northwest Quarter of Section 21, Township 37 North, Range 9 West of the 2<sup>nd</sup> Principal Meridian, Lake County, Indiana, with the centerline described as follows:

Commencing at the Southwest corner of the Southeast Quarter of said Section 17; thence North 00 degrees 14 minutes 54 seconds West along the west line of said Southeast Quarter, 395.26 feet to a point on the western boundary of that that 3.843 acre parcel conveyed to the State of Indiana by Warranty Deed dated July 3, 1984 and recorded as Document No. 84-767628 in the Office of the Recorder of Lake County, Indiana; thence North 89 degrees 45 minutes 06 seconds East, perpendicular to said west line 26.55 feet more or less to the centerline of an existing storm sewer line and the Point of Beginning of this description: thence along said centerline the following nineteen (19) courses: 1) South 56 degrees 55 minutes 18 seconds East 155.08 feet; 2) South 60 degrees 49 minutes 03 seconds East 291.85 feet; 3) South 68 degrees 02 minutes 42 seconds East 418.08 feet; 4) South 77 degrees 28 minutes 21 seconds East 491.56 feet; 5) South 83 degrees 37 minutes 28 seconds East 338.70 feet; 6) South 86 degrees 49 minutes 03 seconds East 168.84 feet; 7) South 85 degrees 49 minutes 13 seconds East 80.54 feet; 8) South 74 degrees 39 minutes 17 seconds East 30.73 feet; 9) South 86 degrees 17 minutes 09 seconds East 401.26 feet; 10) South 86 degrees 35 minutes 43 seconds East 79.38 feet; 11) South 85 degrees 08 minutes 24 seconds East 159.89 feet; 12) South 84 degrees 40 minutes 13 seconds East 193.54 feet; 13) South 85 degrees 35 minutes 05 seconds East 170.94 feet; 14) South 83 degrees 06 minutes 37 seconds East 414.64 feet; 15) South 72 degrees 41 minutes 23 seconds East 179.66 feet; 16) South 64 degrees 35 minutes 22 seconds East 239.35 feet; 17) South 55 degrees 05 minutes 52 seconds East 227.99 feet; 18) South 46 degrees 03 minutes 33 seconds East 219.92 feet; 19) South 45 degrees 08 minutes 24 seconds East 185.14 feet to the POINT OF TERMINUS, whence the point of commencement bears North 78 degrees 28 minutes 27 seconds West 4,256.23 feet;

EASEMENT "B" DESCRIPTION

A Storm Sewer Pipe, located in the Southeast Quarter of Section 17, Range 9 West of the 2<sup>nd</sup> Principal Meridian, Lake County, Indiana, with the centerline described as follows:

Commencing at the Southwest corner of the Southeast Quarter of said Section 17; thence North 00 degrees 14 minutes 54 seconds West along the west line of said Southeast Quarter, 395.26 feet to a point on the western boundary of that that 3.843 acre parcel conveyed to the State of Indiana by Warranty Deed dated July 3, 1984 and recorded as Document No. 84-767628 in the Office of the Recorder of Lake County, Indiana; thence North 89 degrees 45 minutes 06 seconds East, perpendicular to said west line 26.55 feet more or less to the centerline of an

EXHIBIT "A-1"  
Legal Description of Storm Sewer Line

existing storm sewer line; thence South 56 degrees 55 minutes 18 seconds East 25.00 feet more or less to an existing manhole and the Point of Beginning of this description: Thence North 06 degrees 33 minutes 46 seconds East 135.68 feet more or less to an existing lift station and the POINT OF TERMINUS, whence the point of commencement bears South 03 degrees 21 minutes 19 seconds West 517.40 feet;



EXHIBIT B  
Lift Station

Sheet 1 of 1

Project: MM-850(23)  
Code: 1186

A part of the Southeast Quarter (SE ¼) of Section 17, Township 37 North, Range 9 West of the Second Principal Meridian in Lake County, Indiana, more particularly described as follows: Commencing at a Type "A" monument found in place at P.T. Station 185+45.94, 49.00 feet left of Line "P.R.-1-E" as shown on sheet 22 of 69 of the Right-of-Way Plans for Project No. MM-850(23) approved August 30, 1977 and April 10, 1978, said monument designated as point "300" on the attached Right-of-Way Parcel Plat, marked Exhibit "B"; thence North 32 degrees 35 minutes 03 seconds East 109.00 feet to P.T. Station 185+45.94, 60 feet right on the northeasterly Right-of-Way line of said Project No. MM-850(23) designated as point "9010" on said Parcel Plat, Basis of Bearings for this description is Line "P.R.-1-E" from Center Line P.T. Station 185+45.94 forward North 57 degrees 24 minutes 57 seconds West as shown on said Right-of-Way Plans for Project No. MM-850(23); thence North 57 degrees 24 minutes 57 seconds West 104.06 feet along said northeasterly Right-of-Way line to the Point of Beginning designated as point "9011" on said Parcel Plat; thence North 03 degrees 58 minutes 25 seconds East 62.65 feet to the point designated as "9012" on said Parcel Plat; thence North 57 degrees 24 minutes 57 seconds West 83.93 feet to the west line of said SE ¼ of Section 17 designated as point "9018" on said Parcel Plat; thence South 00 degrees 38 minutes 30 seconds East 65.75 feet along said west line to said northeasterly Right-of-Way line of Project No. MM-850(23) designated as point "4" on said Parcel Plat; thence South 57 degrees 24 minutes 57 seconds East 77.90 feet along said northeasterly Right-of-Way line to the Point of Beginning and containing 0.102 acres, more or less.



This description was prepared for the Indiana Department of Transportation on the 28<sup>th</sup> day of November, 2012

by Jeffrey H. Gustke  
Jeffrey H. Gustke  
Indiana Professional Land Surveyor  
License Number 29900004

Part Of Parcel 7  
County: LAKE  
Section: 17  
Township: 37N  
Range: 9W

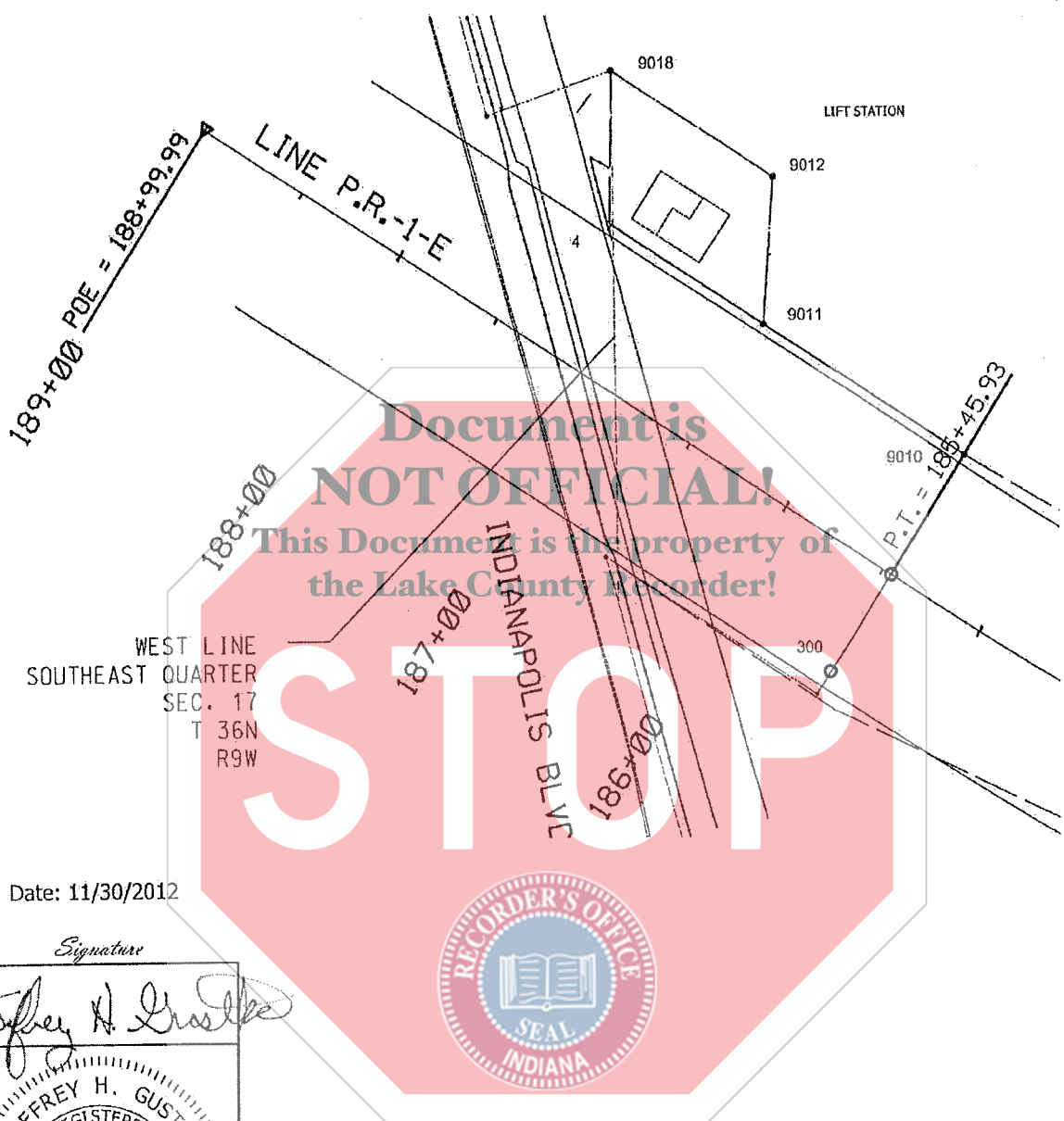
# Right of Way Parcel Plat

Code: 1186  
Page: 1 of 2

Prepared by: JWP  
Checked by: JHG

EXHIBIT B-1

## LIFT STATION



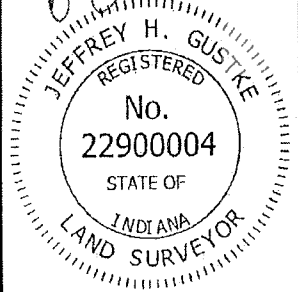
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STOP

WEST LINE  
SOUTHEAST QUARTER  
SEC. 17  
T 36N  
R9W

Date: 11/30/2012

Signature



SCALE: 1" = 70'  
0' 35' 70'

Part of Parcel: 7  
 County: LAKE  
 Section: 17  
 Township: 37N  
 Range: 9W

Right of Way Parcel Plat

Code: 1186  
 Page: 2 of 2

EXHIBIT B-1

Prepared by: JWP  
 Checked by: JHG

LIFT STATION

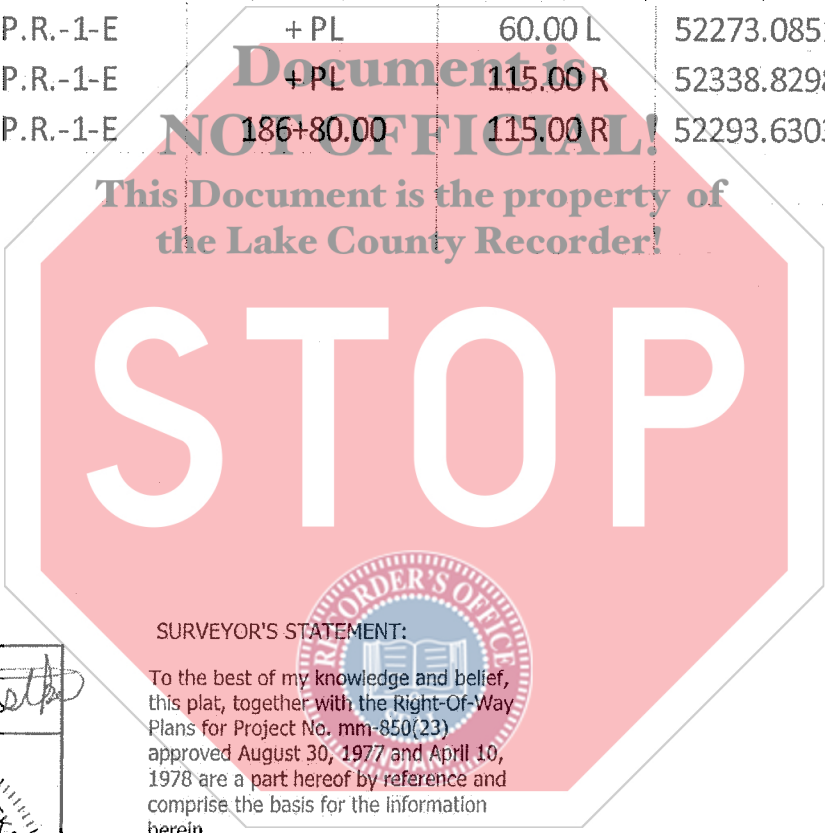
Parcel Coordinate Chart (shown in Feet)

Point	Line	Station	Offset	Northing	Easting
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NOTE: Stations and Offsets control over both North & East coordinates and Bearings & Distances.

\*\* Additional calculated corner information from other records.

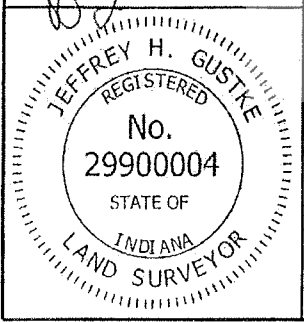
300	P.R.-1-E	P.T. 185+45.93	49.00 L	52083.2472	44996.1155
9010	P.R.-1-E	P.T. 185+45.93	60.00 R	52175.0908	45054.8162
9011	P.R.-1-E	P.T. 185+45.93	60.00 R	52231.1311	44967.1351
4	P.R.-1-E	+ PL	60.00 L	52273.0851	44901.4935
9018	P.R.-1-E	+ PL	115.00 R	52338.8298	44900.7572
9012	P.R.-1-E	186+80.00	115.00 R	52293.6303	44971.4767



Date: 11/30/2012

Signature

*Jeffrey H. Gustke*



SURVEYOR'S STATEMENT:

To the best of my knowledge and belief, this plat, together with the Right-Of-Way Plans for Project No. mm-850(23) approved August 30, 1977 and April 10, 1978 are a part hereof by reference and comprise the basis for the information herein.

This plat was prepared from information obtained from the Recorder's Office and other sources which were not necessarily checked by a field survey.