

STATE OF INDIANA)
) SS: IN THE CARROLL CIRCUIT COURT
COUNTY OF CARROLL) CAUSE NO. 08C01-1108-PL-16

STATE OF INDIANA,)
)
Plaintiff,)
)
v.)
)
DONALD E. HUFF and BETTY A. HUFF,)
)
TRUSTEES OF THE HUFF FAMILY)
)
REVOCABLE LIVING TRUST; AND)
)
CARROLL COUNTY, INDIANA,)
)
Defendants.)

AGREED FINDING AND JUDGMENT

Plaintiff, State of Indiana, by Gregory F. Zoeller, Attorney General of Indiana, and Jordan D. Church, Deputy Attorney General; Defendants, Donald E. Huff and Betty A. Huff, Trustees of the Huff Family Revocable Living Trust, by counsel, Matthew R. Laydon, now move the Court for judgment in this case. The Court, having examined the pleadings and being duly advised, now finds:

1. Plaintiff filed its Complaint for Appropriation of Real Estate on August 18, 2011.
2. Defendant, Donald E. Huff and Betty A. Huff, Trustees of the Huff Family Revocable Living Trust (“Huffs”) appeared by counsel in this case on or about November 23, 2011.
3. Defendant, Carroll County, Indiana, was properly served, but has failed to appear in this case.

4. All parties were properly served with Summons and Notice of Appropriation of Real Estate according to applicable statute.

5. On December 19, 2011 an Order of Appropriation was entered and appraisers appointed to determine the total amount of just compensation due defendants in this case.

6. On January 27, 2012, the court-appointed appraisers reported that the amount of just compensation due Defendants was One Hundred Sixty Five Thousand Dollars (\$165,000.00). The Plaintiff deposited this sum with the Clerk of the Court on or about February 8, 2012.

7. Defendants Huffs filed Exceptions to Report of Appraisers and Demand for Jury Trial on February 10, 2012.

8. Plaintiff and Defendants Huffs agree to Plaintiff's appropriation of the real estate interests described below and further agree that Defendants Huffs shall recover for the real estate acquired by Plaintiff and any and all damages resulting from that acquisition, total just compensation of Two Hundred Sixty Eight Thousand Four Hundred Dollars (\$268,400.00), plus all accrued interest.

9. The parties further agree that Defendants Huffs may remove and retain possession of the kitchen cabinets, master bath vanity and master bath medicine cabinet.

10. The parties further agree that Defendants Huffs shall be substantially moved out and vacated from the subject premises on or before April 15, 2012 and shall be completely moved out and vacated from the subject premises on or before April 18, 2012.

11. The parties further agree that the amount of total just compensation agreed to herein precludes Defendants Huffs from receiving any Replacement Housing Payment. However, nothing in this Agreement precludes Defendants Huffs from other benefits and services of Relocation including reimbursement of moving costs and closing costs.

12. All parties who filed Exceptions hereby withdraw those Exceptions.

13. All parties who requested trial by jury withdraw their requests and there being no trial, no party herein is entitled to pre- or post-judgment interest and/or attorneys fees and costs.

14. Defendant, Carroll County, Indiana, having failed to appear is hereby defaulted and shall take nothing in this case.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that there is no just reason to delay entry of judgment upon the terms contained herein and that Defendants Huffs hereby release to the Plaintiff, State of Indiana, all of their interests, including all rights of possession to the real estate interests acquired herein, free and clear of the interests of the named Defendants, which said real estate is described as follows:

Fee Simple Title, Access rights, and Temporary Right of Way

The real estate and rights to be appropriated is further described in the attached Exhibit A.

A sketch illustrating the real estate to be appropriated is filed herewith as Exhibit B.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that Defendants Huffs, by agreement, shall have and recover total just compensation for the State's appropriation in this case, the amount of Two Hundred Sixty Eight Thousand Four Hundred Dollars (\$268,400.00), plus all accrued interest from the clerk's interest bearing trust account, in full satisfaction of this judgment and any and all of Defendant's claims in this case.

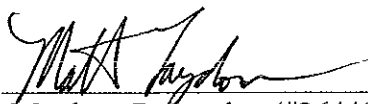
IT IS FURTHER ORDERED that the Plaintiff, State of Indiana, shall deposit the additional sum of One Hundred Three Thousand Four Hundred Dollars (\$103,400.00), with

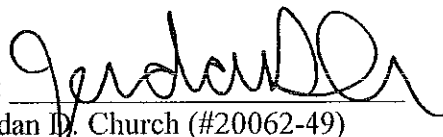
the Clerk in final satisfaction of the total just compensation due herein and the Clerk of the Court will then disburse said sum to Defendants Huffs.

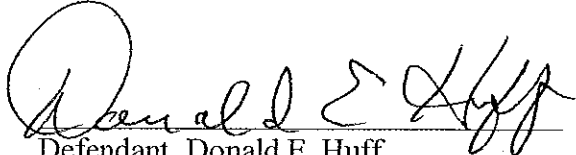
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Clerk of this Court shall promptly send two (2) certified copies of this Agreed Findings and Judgment to the undersigned Deputy Attorney General who upon receipt will forward with a completed Indiana Sales Disclosure Form to the Carroll County Assessor to be reviewed and forwarded to the Auditor and Recorder of Carroll County, Indiana: (1) that said Auditor shall remove the above-described fee simple interest in real estate from the tax records and rolls of Carroll County and cancel all Tax Year 2011 and subsequent years' taxes thereon; and that said Auditor shall submit evidence of the property duly entered for transfer, by United States mail, to the undersigned Deputy Attorney General; and (2) that said Recorder shall, pursuant to IC 8-23-7-31 and without payment of fee, record the transfer of the above-described real estate to the State of Indiana, and that said Recorder shall submit evidence of that recorded transfer, by United States mail, to Jordan D. Church, Deputy Attorney General at the Office of the Attorney General, Indiana Government Center South, 5th Floor, 302 West Washington Street, Indianapolis, IN 46204-2770.

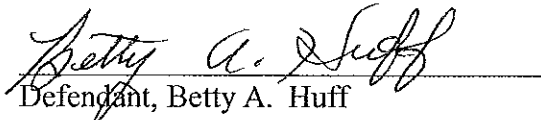
AGREED TO AND APPROVED BY:

GREGORY F. ZOELLER
Attorney General of Indiana
Attorney Reg. No.1958-98

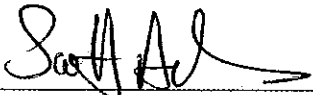

Matthew R. Laydon (#26448-53)
Attorney for Defendants
Donald E. Huff and Betty Huff

By: 
Jordan D. Church (#20062-49)
Deputy Attorney General


Defendant, Donald E. Huff


Defendant, Betty A. Huff

STATE OF INDIANA, PLAINTIFF


By: 
Scott A. Adams, Manager
Office of Real Estate
Indiana Department of Transportation

ALL HEREBY ORDERED THIS _____ DAY OF _____, 2012

DONALD E. CURRIE, JUDGE
Carroll Circuit Court

DECLARATION

"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."


Jordan D. Church

Copies to:

Jordan D. Church
Deputy Attorney General
Indiana Government Center South, Fifth Floor
302 West Washington Street
Indianapolis, IN 46204-2770

Matthew R. Laydon
GAMBS MUCKER & BAUMAN
10 N. 4th Street, PO Box 1608
Lafayette, IN 47902-1608

Abigail Huffer
Attorney for Carroll County, Indiana
102 S. Union Street
Delphi, IN 46923

The Honorable Neda Kay Duff
Auditor, Carroll County, Indiana
Courthouse
101 W. Main Street, 1st Floor
Delphi, IN 46923

The Honorable Trish Williams
Recorder of Carroll County, Indiana
Courthouse
101 W. Main Street, 2nd Floor
Delphi, IN 46923

EXHIBIT "A"

Project: 0800213

Sheet 1 of 1

Code: 5199

Parcel: 11 Fee with Limited Access

Tax No.: 08-06-28-000-020.000-006 and 08-06-28-000-021.000-006

Form: WL-1

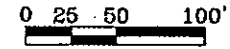
A part of the Southwest quarter (1/4) of the Southeast quarter (1/4) of Section Twenty-eight (28) in Township Twenty-five (25) North and Range Two (2) West in Deer Creek Township, Carroll County, Indiana, being more particularly described as follows: Beginning at the Southwest corner of the Southwest quarter (1/4) of the Southeast quarter (1/4) of Section Twenty-eight (28), Township and Range aforesaid, and running thence in a Northerly direction along the West line of said quarter (1/4) Section for a distance of 600 feet; thence Easterly parallel to the South line of said quarter (1/4) Section for a distance of 150 feet; thence Southerly on a line parallel to the West line of said quarter (1/4) Section for a distance of 600 feet to the South line of said Section; thence Westerly along said South line 150 feet to the place of beginning, containing 2.07 acres, more or less.

ALSO, a part of the southwest quarter (1/4) of the southeast quarter (1/4) of section twenty-eight (28), township twenty-five (25) north, range two (2) west in Deer Creek Township, being more particularly described as follows: Beginning at a point on the south line of said section distant east 150 feet from the southwest corner of the southwest quarter of the southeast quarter (1/4) of said section, and running thence in a northerly direction on a line parallel to the west line of said quarter section for a distance of 600 feet, thence easterly parallel to the south line of said quarter section for a distance of 50 feet, thence southerly on a line parallel to the west line of said quarter section for a distance of 600 feet to the south line of said section, thence westerly along said South line 50 feet to the point of beginning, containing .68 acres, more or less.

TOGETHER with the permanent extinguishment of all rights and easements of ingress and egress to, from, and across the above-described real estate, excepting on any part of said real estate which is not utilized in the limited access portion of the above-designated project.

RIGHT-OF-WAY PARCEL PLAT

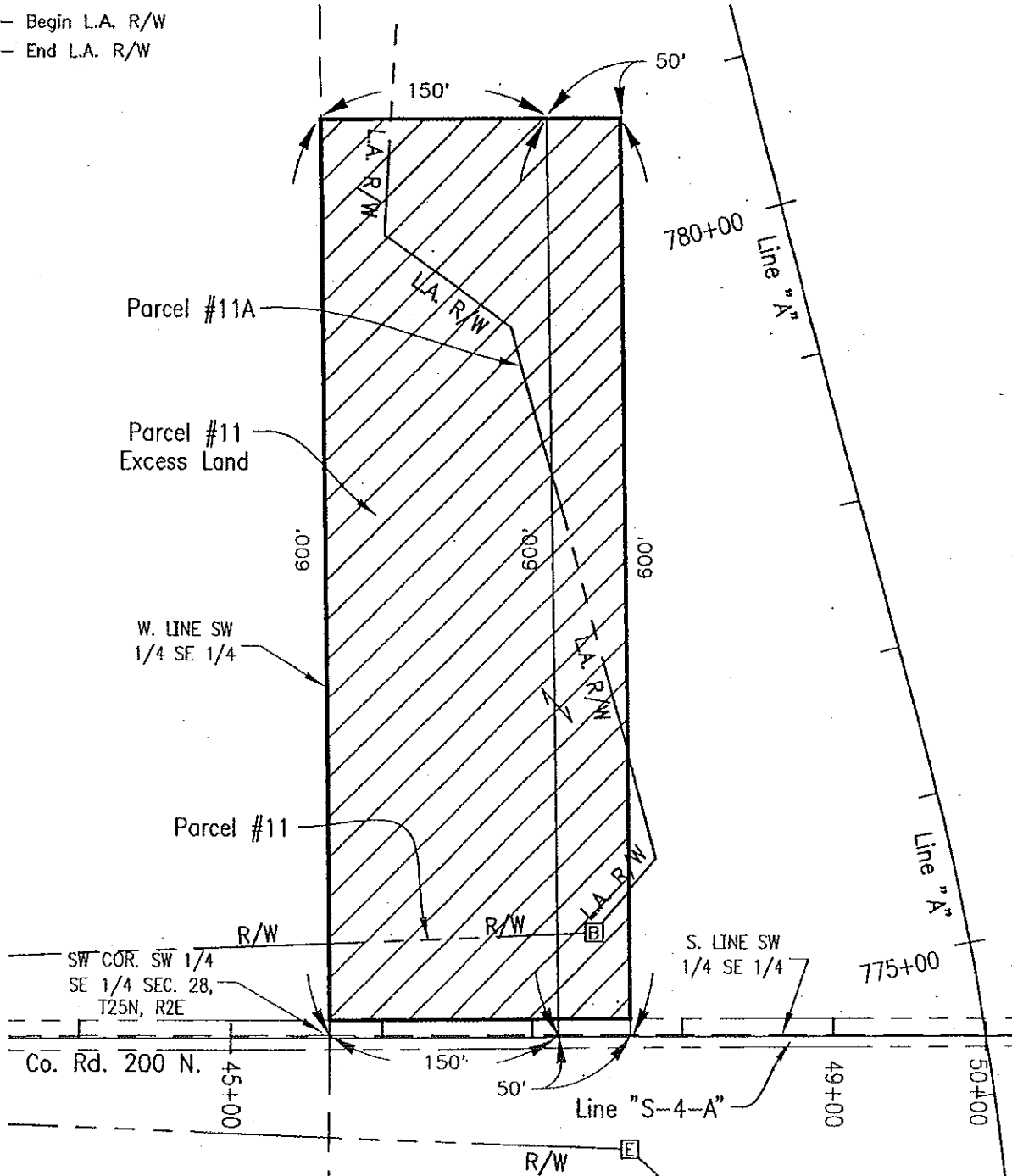
Prepared for Indiana Department of Transportation
by Bernardin Lochmueller & Associates, Inc. (Job No. 103-0015-0HY)



SCALE 1" = 100 ft.



- ⊠ - Begin L.A. R/W
- ⊡ - End L.A. R/W



Rev. 7/16/2010 P.E.Jones: Modified L.A.R/W

<p>PARCEL: 11 OWNER: Huff Family Revocable</p> <p>PROJECT: 0800213 Living Trust</p> <p>ROAD: S.R. 25</p> <p>COUNTY: Carroll</p> <p>SECTION: 28</p> <p>TOWNSHIP: 25 N.</p> <p>RANGE: 2 W.</p>	<p>DRAWN BY: P. E. Jones 6/4/2010</p> <p>CHECKED BY: R.F. Lewis 6/7/2010</p>
<p>⊠ HATCHED AREA IS THE APPROXIMATE TAKING</p>	<p>INSTRUMENT#: 200300006571, DATED: 11/29/03</p> <p>" 200300006572, " 11/29/03</p>

**CERTIFICATION OF PAYMENT OF COURT-APPOINTED APPRAISERS' AWARD
AND REQUEST FOR TRANSFER**

TO THE AUDITOR OF CARROLL COUNTY, INDIANA:

Gregory F. Zoeller, Attorney General of Indiana, by Jordan D. Church, Deputy Attorney General, for and on behalf of the State of Indiana, certifies:

1. That the State of Indiana is the Plaintiff in the case titled **State of Indiana v. Donald E. Huff and Betty Huff, et al.**, pending in the Carroll Circuit Court as **Cause No. 08C01-1108-PL-16**. This case is an action in eminent domain whereby the State is appropriating the real estate described in the attached Exhibit A and Exhibit B.

2. That on or about January 27, 2012, the court-appointed appraisers returned a report to the Court with total damages for One Hundred Sixty Five Thousand Dollars (\$165,000.00) which was paid to the Clerk of Court, by the Plaintiff, on February 8, 2012.

3. Pursuant to IC 32-24-1-10, the Auditor of Carroll County is required to immediately transfer the above-described real estate to the name of the State of Indiana on the tax records of the County.

4. Pursuant to IC 8-23-7-31 and IC 36-2-7-10 (g) (2) (B), the transfer of the above-described real estate to the State of Indiana is to be made without payment of any fee.

5. I, the undersigned preparer of this document, in accordance with IC 36-2-7.5, hereby affirm under the penalties of perjury that I have reviewed this document for the purpose of identifying and, to the extent permitted by law, redacting all Social Security numbers. I have determined that this document does not contain any Social Security numbers or that any such numbers that are contained have been properly redacted in accordance with law.

DULY ENTERED FOR TAXATION

DATE February 22, 2012

PLAT NO. 08-02-28-000-020-000-0006

Elaine Hathaway
Auditor of Carroll County

Respectfully submitted,

GREGORY F. ZOELLER
Attorney General of Indiana
Attorney No. 1958-98

Jordan D. Church
Jordan D. Church
Deputy Attorney General
Attorney No. 20062-49

EXHIBIT "A"

Project: 0800213

Sheet 1 of 1

Code: 5199

Parcel: 11 Fee with Limited Access

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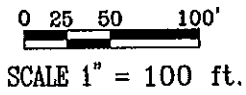
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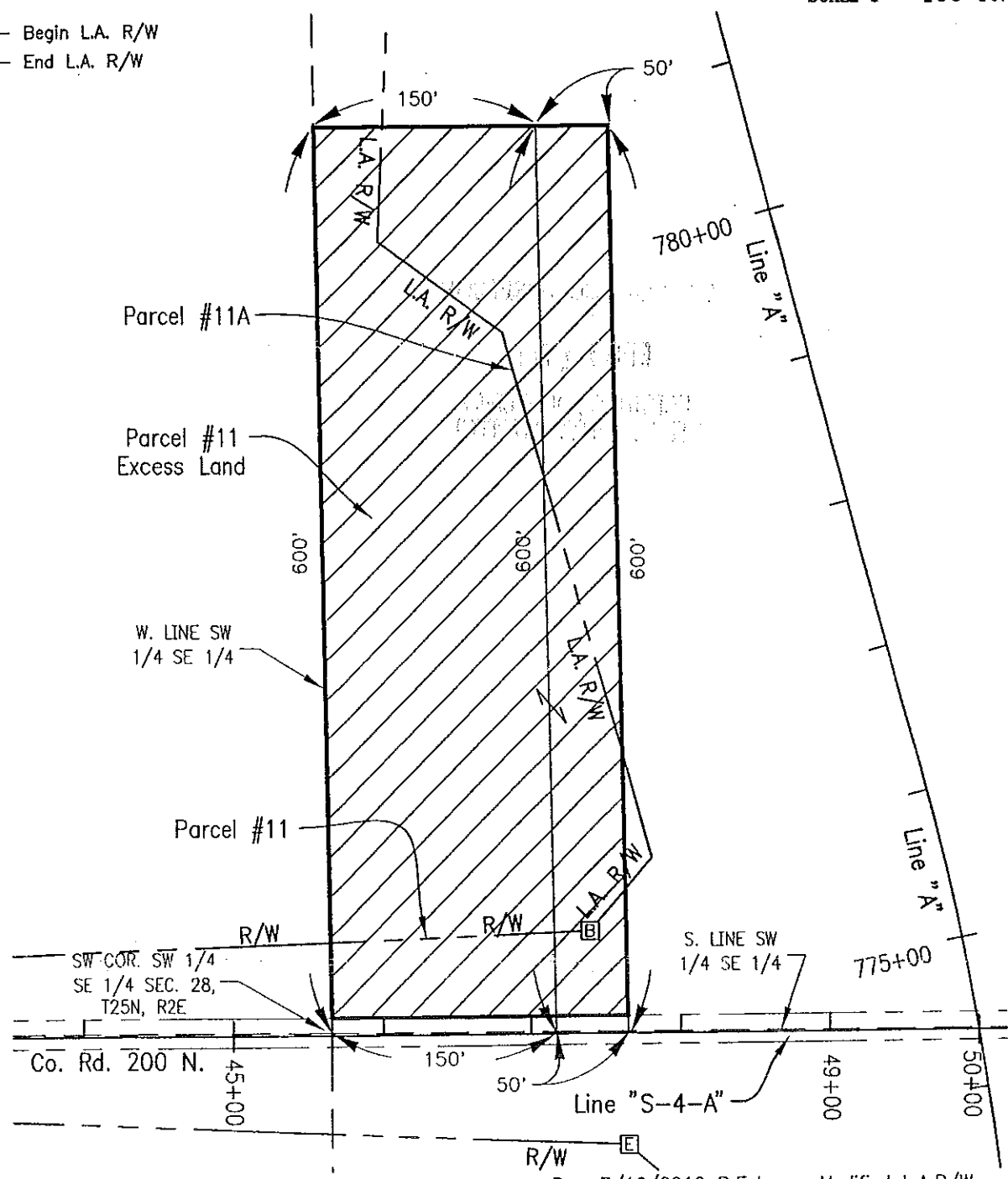
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RIGHT-OF-WAY PARCEL PLAT

Prepared for Indiana Department of Transportation
by Bernardin Lochmueller & Associates, Inc. (Job No. 103-0015-OHY)



- ⊠ - Begin L.A. R/W
- ⊡ - End L.A. R/W



Rev. 7/16/2010 P.E. Jones: Modified L.A.R/W

PARCEL: 11 PROJECT: O800213 ROAD: S.R. 25 COUNTY: Carroll SECTION: 28 TOWNSHIP: 25 N. RANGE: 2 W.	OWNER: Huff Family Revocable Living Trust 	DRAWN BY: P. E. Jones 6/4/2010 CHECKED BY: R.F. Lewis 6/7/2010
INSTRUMENT#: 200300006571, DATED: 11/29/03 " 200300006572, " 11/29/03		HATCHED AREA IS THE APPROXIMATE TAKING

STATEMENT OF THE BASIS FOR JUST COMPENSATION

Code 5199

This is a written statement of, and summary of the basis for, the establishment of the amount believed to be, through a valuation process, just compensation for the purchase of this right-of-way for highway purposes. The amount set forth in Item 5 below is not less than the approved estimate of value. In accordance with Public Law 91-646 as amended, the "Uniform Act", and as codified in Indiana at IC 8-23-17-1 through 8-23-17-35, this value disregards any decrease or increase in fair market value of the property prior to the date of valuation caused by the public improvement for which the property is acquired other than physical deterioration within reasonable control of the owner.

2. The legal description of this acquisition is set forth in the instrument of conveyance in the following identified parcel and this acquisition is identified in the Acquiring Agency's records as: Pt. SW ¼, SE ¼, S28, T25N, R2W, Carroll County, IN.

Des. # 0800213 Parcel 11 Road S. R. 25 County Carroll County, Indiana
 Owner(s) Huff Family Revocable Living Trust

3. The area and type of interest being acquired: 2.750 acres fee simple inclusive of .046 acres presently existing right-of-way
 The amount in Item 5 below includes payment for the purchase of all interests in the real property and no separately held interest is being acquired separately in whole or part, except as may be explained in Item 8 below.

4. This acquisition is (Check one):
 a. A total acquisition of the real property.
 b. A partial acquisition of the real property.

5. The Agency's Offer: Just compensation has been determined to be and the Acquiring Agency's offer for the purchase of this real property is as follows:

a. Total Land, Land Improvements and Buildings	\$	<u>149,000.00</u>
b. Severance Damages (i.e.: Setback, Loss in Value to the Residues, etc)	\$	<u>0.00</u>
c. Other Damages (Itemize) Cost-To-Cure estimates:		
_____	\$	<u>0.00</u>
_____	\$	<u>0.00</u>
_____	\$	<u>0.00</u>
_____	\$	
Temporary R/W	\$	<u>0.00</u>
Total Damages	\$	<u>0.00</u>
d. Perpetual Easement	\$	<u>0.00</u>
Total amount believed to be Just Compensation offered for this Acquisition is:	\$	<u>149,000.00</u>

6. The amount in Item 5 above may include payment for the purchase of certain buildings and improvements and their ownership shall pass to the Acquiring Agency. These buildings and improvements are identified as follows:

All building improvements are included in this acquisition. This is a total acquisition.

7. The amount in Item 5 above may include payment for the purchase of certain Land Improvements, Fixtures, Equipment, Machinery, Signs, Etc., and their ownership shall pass to the Acquiring Agency. These items are identified as follows:

All land improvements are included in this acquisition. This is a total acquisition.

8. Items owned by others (i.e.: lessee, tenants, etc.) included in Item 5 above are identified as follows: Nothing has been identified as such.

9. Remarks: No additional remarks.

Indiana Department of Transportation Approval
 Signature: [Signature]
 Name Printed: STEPHEN MILLER
 Title: INDOT PROGRAM DIRECTOR
 Date: 3-10-11

Reviewer:
 Signature: [Signature]
 Name Printed: Brian J. Krenzke, CG49900161
 Company: HNTB Indiana
 Date: March 6, 2010