



County: Carroll Co, Indiana

Prior Deed Reference: Warranty Deed, Charles A. Minnicus Et Ux. to State of Indiana, Recorded on the 5<sup>th</sup> day of August 2011 as Instrument No 201100002625, Book 92 Pages 356-363 Office of the Recorder Carroll County, Indiana

**DECLARATION OF RESTRICTIONS AND  
COVENANTS UPON REAL ESTATE**

**THIS DECLARATION OF RESTRICTIONS AND COVENANTS UPON REAL ESTATE** (the "Declaration") is made this 27<sup>th</sup> day of April, 2021, by the State of Indiana, acting by and through the Indiana Department of Transportation, 100 North Senate Avenue, Indianapolis, IN 46204-2219 ("INDOT" or "State" or "Owner").

**WITNESSETH:**

**WHEREAS**, INDOT is the fee simple owner of certain real property in Carroll County, Indiana, the legal description of which is attached hereto as Exhibit "A" and herein incorporated by reference (the "Restricted Area"), which property is located on the North side State Road 25 in Section 15 Township 25 North Range 2 West in Carroll County as generally depicted on the site plan for the property, attached hereto as Exhibit "B" and herein incorporated by reference; and

**WHEREAS**, pursuant to state law, including, but not limited to, Indiana Code § 14-21-1, 312 IAC 21, and 312 IAC 22 INDOT has identified an archeological site that is eligible for inclusion on the National Register of Historic Places ("NRHP") and the and Indiana Register of Historic Sites and Structures in the Restricted Area that required this declaration of restrictions and covenants upon real estate to ensure that the Restricted Area shall be preserved in perpetuity; and

**WHEREAS**, Indiana laws in conjunction with direction from the Indiana Department of Natural Resources, Department of Historic Preservation and Archeology ("IDNR, DHPA"), require INDOT to execute, record and file this Declaration on the Restricted Area to ensure that the Restricted Area shall be preserved in perpetuity, and that covenants and restrictions contained herein shall run with the land in perpetuity, shall take effect upon execution of this Declaration, and shall bind all assigns and successors of the Owner;

**NOW, THEREFORE**, in consideration of the foregoing and for the purpose of protecting the Archeological value and integrity of the Restricted Area, Owner hereby declares and impresses upon the Restricted Area the following restrictions and covenants.

1. Term. The Owner hereby declares that the Restricted Area shall be bound by, held, transferred, sold, conveyed, leased, improved, hypothecated, occupied or otherwise disposed of and used subject to the terms and conditions contained herein. The covenants and restrictions contained herein shall run with the land and shall take effect upon execution of this Declaration. The duration of this Declaration shall be perpetual and shall bind all assigns and successors of the Owner.
2. Preservation Values. The Restricted Area possesses historical and archeological resources of prominent importance to the Owner and the Public. The Owner hereby covenants on behalf of itself, its heirs, successors and assigns at all time to restore, maintain the Preservation Values which includes retaining or protecting the Restricted Area in accordance with the recommended approaches of the "Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (National Park Service, 1992/1995)," and preserving those

qualities that make the Restricted Area eligible for listing in the NRHP and Indiana Register of Historic Sites and Structures.

3. Purpose and Extent. The Owner is fee simple owner of the Restricted Area, and is committed to preserving and protecting the Preservation Values of the Restricted Area. This Declaration restricts the current and future use of the Restricted Area and assures that the Restricted Area will be perpetually preserved in its current condition.
4. Prohibited Uses. Except as expressly provided herein and subject to any existing easements, interests or restrictions of record prior to the creation of this Declaration, any activity on, or use of the Restricted Area that is inconsistent with the site's purposes of preservation is prohibited. Owner covenants that they shall not undertake, or consent to third parties undertaking, the following prohibited activities in the Restricted Area:
  - a) the subdivision of the Restricted Area into two or more parcels;
  - b) any residential, commercial, or industrial use or activity on the Restricted Area;
  - c) the placement, construction, or maintenance of any new man-made modifications such as buildings, structures, fences, parking lots, and other improvements, unless permitted by the prior written approval of the IDNR, DHPA;
  - d) the right to drill explore or in any way penetrate the surface area for the purpose of mining, exploration for, or extraction of, oil, gas, or other minerals, hydrocarbons, soils, sand, gravel, rock, peat, or other materials on or from the surface or subsurface;
  - e) earth moving, grading, dredging, filling, flooding, or excavating; no removal of natural materials; and no alteration of topography or ground disturbing activities in any manner;
  - f) the construction, maintenance, or erection of any commercial advertisement, sign or billboard, except for the posting of signs identifying the Owner of the Restricted Area, signs depicting designations or classifications affecting the Restricted Area and signs designated by the Owner indicating that the property is subject to the prohibitions contained in this Declaration;
  - g) the construction or extension of roads, trails or utility systems, except in easements or right-of-ways of record prior to the date of this Declaration;
  - h) any other activities, actions or uses that would be in violation of Indiana Code § 14-21-1, 312 IAC 21, and 312 IAC 22;
5. Owner, its successors, and assigns, shall faithfully observe each of the restrictions and covenants stated herein.
6. IDNR, DHPA (or an authorized representative thereof) shall have the right of entry to and upon the Restricted Area and the right to determine and monitor compliance with these restrictions and covenants. The restrictions and covenants herein shall be enforceable by the IDNR, DHPA.
7. Enforcement/ Holder's and IDNR, DHPA's Remedies.

- a) The IDNR, DHPA may not bring an action against the Owner for modifications of the Restricted Area resulting from causes beyond the Owner's control, such as unintentional fires, storms, natural earth movement, floods, or trespassers. Owner has no responsibility under this Declaration for such unintended modifications.
  - b) Owner and/or IDNR, DHPA, acting individually or jointly, has the discretionary right to bring an action at law or in equity in a court of competent jurisdiction to enforce this Declaration and to enjoin any activity by temporary or permanent injunction against any third party for acts inconsistent with the Preservation Values and uses of this Declaration and require restoration by any such third party of the Restricted Area to the condition that existed prior to any such injury, and payment of costs, including attorney fees. In any enforcement action, an enforcing party shall be entitled to complete restoration for any violation, as well as any other remedy available under law or equity, such as injunctive relief and administrative, civil or criminal penalties. No omission or delay in acting by the Owner or the IDNR, DHPA shall bar subsequent enforcement rights or constitute a waiver of any enforcement right.
  - c) If the IDNR, DHPA determines that the Owner or its successors or assigns is in violation of this Declaration, or that a violation is threatened, the IDNR, DHPA may provide written notice to the Owner or its successors or assigns unless the violation constitutes immediate and irreparable harm. The written notice will identify the violation and request corrective action to cure the violation or restore the Restricted Area. If for a 28 day period after the date of the written notice, the Owner continues to violate this Declaration, or if the Owner does not abate the violation and implement corrective or restorative measures requested by the IDNR, DHPA, the IDNR, DHPA may bring an action in law or in equity to enforce the terms of this Declaration. The Mitigation Parties are also entitled to enjoin the violation through injunctive relief, seek specific performance, declaratory relief, restitution, reimbursement of expenses, an order compelling restoration of the Restricted Area or any other remedy available under law or equity. No omission or delay in acting by the IDNR, DHPA shall bar subsequent enforcement rights or constitute a waiver of any enforcement right.
8. Persons Bound/Covenants Run with the Land. The covenants, terms, conditions, and restrictions of this Declaration shall be binding upon, and shall inure to the benefit of the Owner and its successors and assigns, and shall continue as an easement in servitude running with the Restricted Area in perpetuity. This Declaration is enforceable against Owner and all present and future owners, tenants, and other holders of any interest in the Restricted Area. The term "Owner", when used herein, shall be deemed to refer to Owner and its successors and assigns.
  9. Severability. If any provision of this Declaration, or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions or the application of such provisions to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.
  10. Governing Law. This Declaration shall be construed for all purposes under the laws of the State of Indiana. Any subsequent amendment to or repeal of any state law or order, which authorizes this Declaration, shall not affect the restrictions placed on the Restricted Area under this Declaration, or the rights retained by the Owner or subsequently held by its successors or assigns.
  11. Amendment. This Declaration may only be amended by written approval of the IDNR, DHPA and

Owner. Any amendment shall not affect the perpetual duration of this Declaration nor alter its purposes as defined herein.

12. Notices.

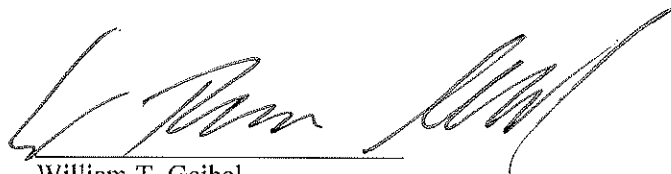
Notices shall be delivered to the IDNR, DHPA at the following individual addresses, or at such other addresses as may be hereafter provided by notice to the Owner:

Indiana Department of Natural Resources  
Division of Historic Preservation & Archaeology  
402 West Washington Street, Room W274  
Indianapolis, Indiana 46204  
Phone: 317-232-1646  
Fax: 317-232-0693

13. Miscellaneous. Any ambiguities in this Declaration shall be construed to effectuate the Preservation Values for which this Declaration has been made.

[Remainder of Page Intentionally Left Blank]

**IN WITNESS WHEREOF**, Owner has executed this Declaration of Restrictions and Covenants upon Real Estate as of day and year first written above.

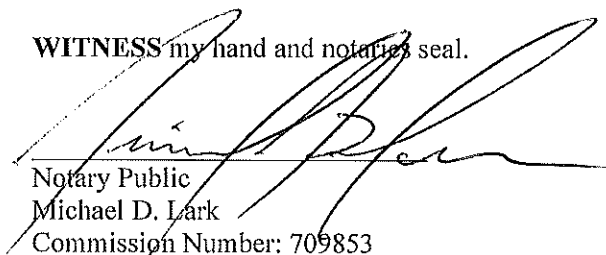


William T. Geibel  
Director of Real Estate Division

Indiana Department of Transportation    )  
State of Indiana                                )       §:  
County of Marion                            )

Before me, the undersigned, a Notary Public in and for said County and State, this 27<sup>th</sup> day of April, 2021 personally appeared William T. Geibel, Director of Real Estate (*name & title of person appearing*) and acknowledged the execution of the foregoing to be a voluntary act and deed, for the uses and purposes therein set forth.

WITNESS my hand and notaries seal.



Notary Public  
Michael D. Lark  
Commission Number: 709853



My Commission Expires:  
January 29, 2026

County of Residence: Marion

Code: 5197

Parcel: 17A

This instrument was prepared by:

Teresa D. Giller, Attorney  
Attorney No. 17698-49  
Indiana Department of Transportation  
100 North Senate Ave, N730  
Indianapolis, IN 46204

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.

*Teresa D. Giller*  
Teresa D. Giller

## EXHIBIT "A"

Sheet 1 of 1

**Project: 0500600**

**Code: 5197**

**Parcel: 17 Restricted Area**

**Parcel ID: 08-06-15-000-064.000-006**

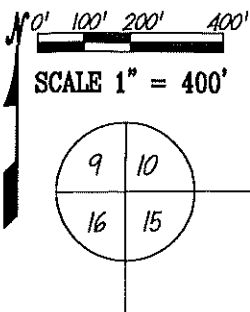
A part of the Northwest Quarter of Section 15, Township 25 North, Range 2 West, Carroll County, Indiana, and being that part of the grantor's land lying within the restriction lines depicted on the attached Right-of-Way Parcel Plat, marked Exhibit "B", described as follows: Commencing at the northeast corner of said quarter section, designated as point "419" on the Location Control Route Survey Plat recorded in Instrument 2008-1667 in the Office of the Recorder of said county; thence South 89 degrees 38 minutes 49 seconds West 557.54 feet along the north line of said section to the northeast corner of the grantor's land; thence South 1 degree 20 minutes 39 seconds West 365.02 feet along the east line of the grantor's land to a corner of the grantor's land; thence South 45 degrees 47 minutes 33 seconds West 216.67 feet along a southeastern line of the grantor's land to a corner of the grantor's land; thence South 02 degrees 45 minutes 47 seconds East 77.98 feet along an east line of the grantor's land to the point of beginning of this description, designated as point "4001" on said Parcel Plat; thence continuing South 02 degrees 45 minutes 47 seconds East 375.26 feet along said east line to a corner of the grantor's land; thence South 79 degrees 44 minutes 11 seconds East 158.87 feet along a northern line of the grantor's land to the northwestern boundary of S.R. 25 (Hoosier Heartland Highway); thence South 47 degrees 32 minutes 17 seconds West 188.35 feet along said boundary to point "268" designated on said Parcel Plat; thence South 43 degrees 55 minutes 08 seconds West 800.14 feet along said boundary to point "463" designated on said Parcel Plat; thence South 42 degrees 07 minutes 51 seconds West 84.72 feet along said boundary to the west line of the Northeast Quarter of the Northwest Quarter of said section; thence North 00 degrees 28 minutes 28 seconds West 588.10 feet along said west line to point "4000" designated on said Parcel Plat; thence North 44 degrees 59 minutes 35 seconds East 822.10 feet to the point of beginning and containing 8.147 acres, more or less.



This description was prepared for the  
Indiana Department of Transportation  
on the 9<sup>th</sup> day of April, 2019.

*Kelly D. Marley*  
Kelly D. Marley  
Indiana Registered Land Surveyor  
License Number LS20400016





# EXHIBIT "B"

## RIGHT-OF-WAY PARCEL PLAT

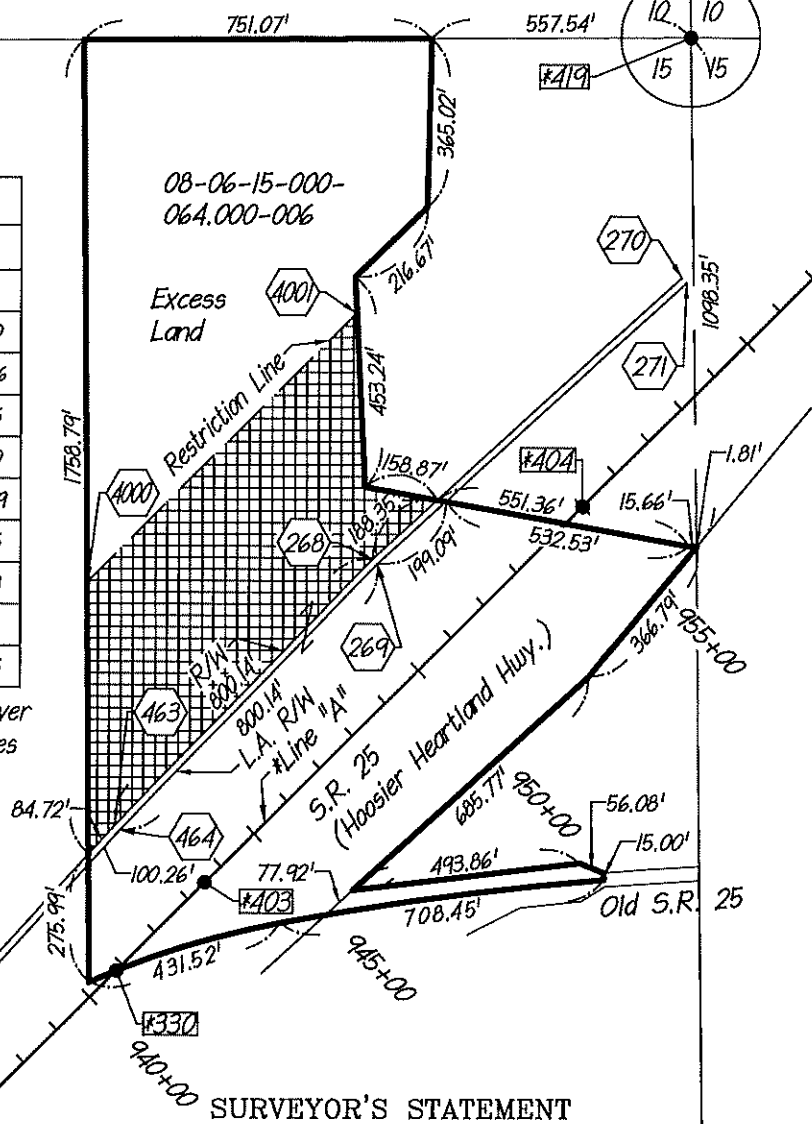
Prepared for the Indiana Department of Transportation  
by USI Consultants, Inc. (Job #2017-951-26)

SHEET 1 OF 1

Point	Line	Station	Offset	Northing	Easting
268	A	951+00.00	240.00 Lt.	80668.2822	31617.9482
269	A	951+00.00	225.00 Lt.	80657.6768	31628.5560
270	A	960+00.00	200.00 Lt.	81276.4737	32282.5556
271	A	960+00.00	185.00 Lt.	81265.8684	32293.1635
461	A	937+00.00	195.00 Lt.	79646.3980	30659.9410
462	A	937+00.00	180.00 Lt.	79635.7927	30670.5489
463	A	943+00.00	225.00 Lt.	80091.9236	31062.9385
464	A	943+00.00	210.00 Lt.	80081.3183	31073.5463
4000	A	+E 946+27.83	640.00 Lt.	80617.1779	31001.2385
4001	A	+E 954+49.93	640.00 Lt.	81198.5633	31582.4845

For alignments and points designated "#" see the Location Control Route Survey recorded in Instrument 2008-1667

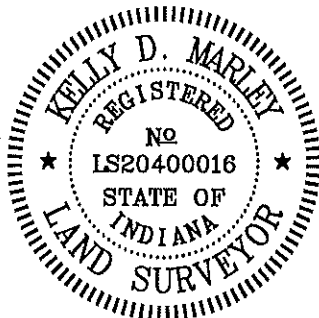
Stations & offsets control over both north & east coordinates and bearings & distances



### SURVEYOR'S STATEMENT

To the best of my knowledge and belief, this plat, together with the "Location Control Route Survey" recorded in Instrument 2008-1667 in the Office of the Recorder of Carroll County, Indiana, (incorporated and made a part hereof by reference) comprise a Route Survey executed in accordance with Indiana Administrative Code 865 IAC 1-12, ("Rule 12").

*Kelly D. Marley*  
Kelly D. Marley Dated 4-9-2019  
Reg. Land Surveyor No. LS20400016  
State of Indiana



PARCEL: 17 OWNER: STATE OF INDIANA  
CODE: 5197  
PROJECT: 0500600  
ROAD: S.R. 25  
COUNTY: CARROLL  
SECTION: 15  
TOWNSHIP: 25 N.  
RANGE: 2 W.



HATCHING IS THE APPROXIMATE RESTRICTED AREA

DRAWN BY: K.T. SOLLARS 3-12-2019  
CHECKED BY: K.D. MARLEY 4-8-2019  
DES. NO.: 0500600

INSTR. 2011000625, D.R. 92, PAGE 357, DATED 5-19-2011

DIMENSIONS SHOWN ARE FROM THE ABOVE LISTED RECORD DOCUMENTS.