

WESTFIELD PARKS & RECREATION



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CHIEF ADMINISTRATIVE OFFICER
BRUCE A. HAUK

DIRECTOR OF PARKS
MELODY JONES

To: Westfield Board of Public Works

From: Melody Jones

CC: Andy Cook, Bruce Hauk

Date: April 9, 2010

RE: Midland Trace Trail – Acceptance of Dedication of Public Right of Way by Spring Mill Self Storage, LLC

Dear Board Members:

We are proceeding with the development of the Midland Trace Trail just west of Springmill Road this year. As part of the re-zoning requirements Spring Mill Self Storage, LLC (Gene B. Click Company) has dedicated the north side of the Midland Trace Trail that was the south property line to the City for the purposes of building the Midland Trace Trail. Attached is the Dedication that will need you to accept before it can be recorded.

I will be able to answer any questions you might have.

Respectfully submitted

DEDICATION OF PUBLIC RIGHT OF WAY

THIS INDENTURE WITNESSETH: That SPRING MILL SELF STORAGE, LLC, an Indiana limited liability company ("Grantor"), hereby gives and dedicates to the City of Westfield ("Grantee"), for the public right-of-way purposes described herein only, the real estate situated in Hamilton County, Indiana and described in Exhibit A attached hereto and made a part hereof (the "Right of Way"), subject to the following terms:

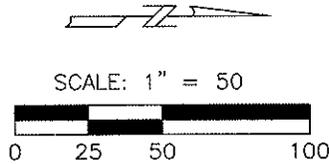
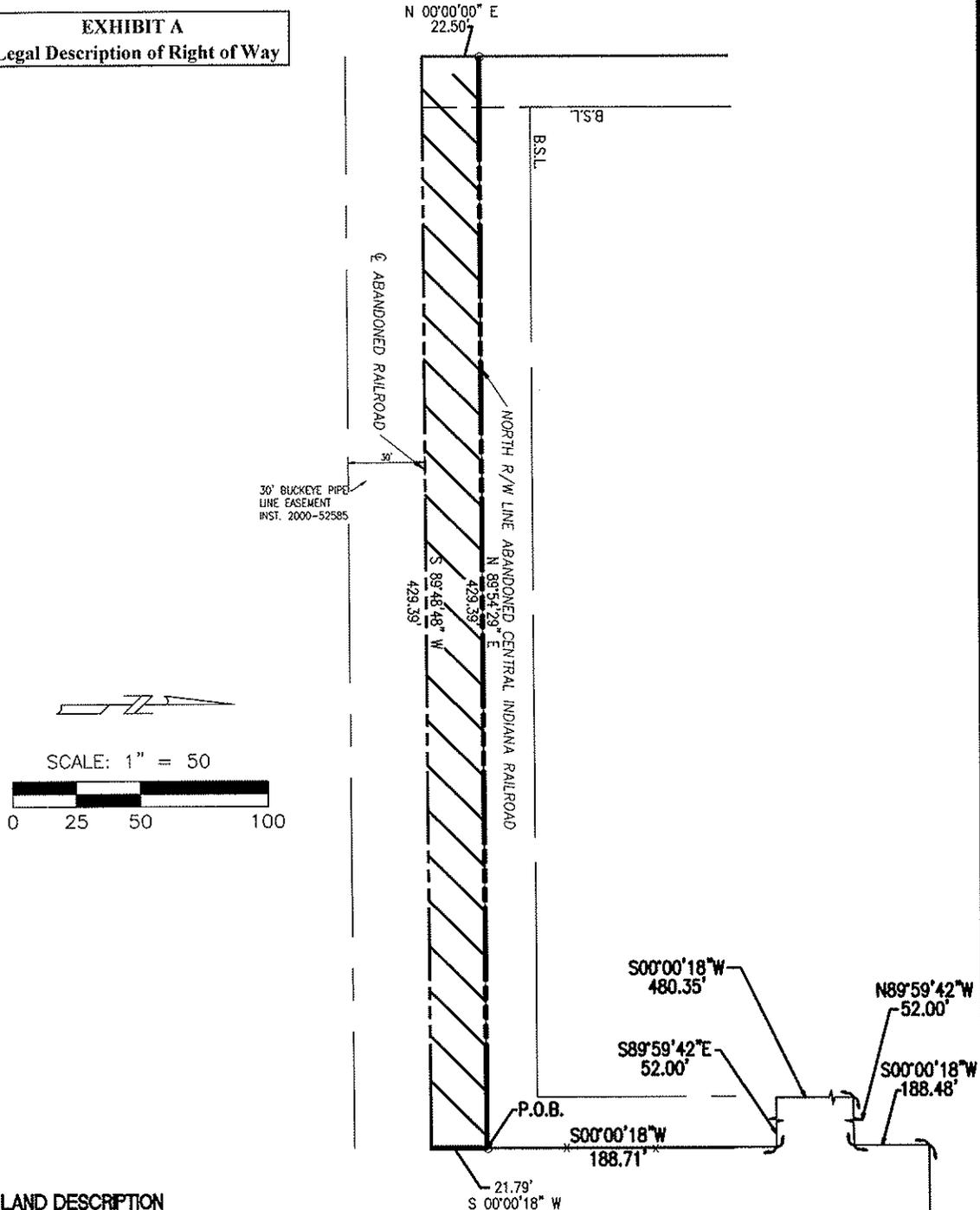
1. Utility Easement Retained By Grantor. This dedication is made subject to all existing easements and right-of-ways, and Grantor hereby reserves and retains for itself, its successors and assigns, the perpetual and non-exclusive right and easement, in, on, over, under, through and across the Right of Way for the purpose of installing, locating, maintaining, and removing utilities facilities, including but not limited to sanitary sewer and water facilities; provided that such facilities shall not unreasonably interfere with Grantee's use of the Right of Way for the purposes stated herein. Grantee shall further have the right to enter along, over, under and upon the Right of Way to install, repair, relocate, service and maintain utility facilities. The easement, rights, obligations and covenants created herein shall be appurtenant to and run with the land and shall be binding upon and shall inure to the benefit of the parties hereto and their transferees, successors and assigns and all persons having an interest in all or part of the Right of Way or Grantor's real property described in Exhibit B attached hereto and incorporated herein (the "Grantor Property").

2. Use and Development of Trail. Grantee covenants for itself and its successors and assigns that it shall use the Right of Way solely as a pedestrian walkway to be commonly known as the Midland Trace Trail. Grantee shall not erect or maintain any buildings or other structures on, over, or under the Right of Way other than paving and landscaping associated with the pedestrian walkway to be installed by Grantee in connection with the Midland Trace Trail (the "Trail Improvements").

3. Repair of Facilities by Grantee. Promptly following the installation, repair, maintenance, operation or removal of the Trail Improvements, Grantee shall restore any utility facilities located within the Right of Way disturbed by Grantee to as near the original condition as is practicable, and shall indemnify and hold Grantor harmless from and against any losses, costs, fines, fees (including attorneys fees), penalties, damages, claims, liabilities and expenses arising out of Grantee's use of the Right of Way.

4. Repair of Trail Improvements by Grantor. Promptly following the installation, repair, maintenance, operation or removal by Grantor of the utility facilities located in the Right of Way, Grantor shall restore any Trail Improvements located within the Right of Way disturbed by Grantor's work to as near the original condition as is practicable, and shall indemnify and hold Grantee harmless from and against any losses, costs, fines, fees (including attorneys fees), penalties, damages, claims, liabilities and expenses arising out of Grantor's work.

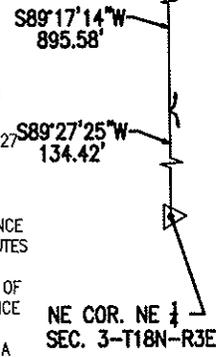
EXHIBIT A
Legal Description of Right of Way



LAND DESCRIPTION

PART OF THE NORTHEAST QUARTER OF SECTION 3, TOWNSHIP 18 NORTH, RANGE 3 EAST, LOCATED IN WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH EAST CORNER OF THE NORTH EAST QUARTER OF SECTION 3, TOWNSHIP 18 NORTH, RANGE 3 EAST (SAID NORTH EAST CORNER BEING NORTH 00 DEGREES 00 MINUTES 00 SECONDS WEST A DISTANCE OF 0.81 FEET FROM THE HARRISON MARKER AT THE CLOSING CORNER FOR SAID NORTH EAST QUARTER); THENCE SOUTH 89 DEGREES 27 MINUTES 25 SECONDS WEST (ASSUMED BEARING) A DISTANCE OF 134.42 FEET TO THE HARRISON MARKER AT THE SOUTH WEST CORNER OF THE SOUTH WEST QUARTER OF SECTION 35 TOWNSHIP 19 NORTH, RANGE 3 EAST; THENCE SOUTH 89 DEGREES 17 MINUTES 14 SECONDS WEST, A DISTANCE OF 895.58 FEET ON AND ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER; THENCE SOUTH 00 DEGREES 00 MINUTES 18 SECONDS WEST, A DISTANCE OF 188.48 FEET; THENCE NORTH 89 DEGREES 59 MINUTES 42 SECONDS WEST, A DISTANCE OF 52.00 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 18 SECONDS WEST, A DISTANCE OF 480.35 FEET; SOUTH 89 DEGREES 59 MINUTES 42 SECONDS EAST, A DISTANCE OF 52.00 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 18 SECONDS WEST, A DISTANCE OF 166.92 FEET, TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 00 DEGREES 00 MINUTES 18 SECONDS WEST, A DISTANCE OF 21.79 FEET; THENCE SOUTH 89 DEGREES 48 MINUTES 48 SECONDS WEST, A DISTANCE OF 429.39 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 22.50 FEET; THENCE NORTH 89 DEGREES 54 MINUTES 29 SECONDS EAST, A DISTANCE OF 429.39 FEET TO THE PLACE OF BEGINNING, CONTAINING 0.217 ACRES, MORE OR LESS.



NE COR. NE 1/4 SEC. 3-T18N-R3E

WEIHE ENGINEERS
Land Surveying | CM Engineering
Landscape Architecture

10505 N. College Avenue
Indianapolis, Indiana 46280
weihe.net
317 | 846 - 6611
800 | 432 - 6408
317 | 843 - 0546 fax
ALLAN H. WEIHE, P.E., L.S. - PRESIDENT

1/21/2009

EXHIBIT B

Legal Description of Grantor Property

A part of the Northeast Quarter of Section 3, Township 18 North, Range 3 East, located in Washington Township, Hamilton County, Indiana, being described as follows:

Commencing at the Northeast corner of the Northeast Quarter of Section 3, Township 18 North, Range 3 East (said Northeast corner being North 00 degrees 00 minutes 00 seconds West 0.81 feet from the Harrison Marker at the closing corner for said Northeast Quarter); thence South 89 degrees 27 minutes 25 seconds West (assumed bearing) 134.42 feet to the Harrison Marker at the Southwest corner of the Southwest Quarter of Section 35, Township 19 North, Range 3 East; thence South 89 degrees 17 minutes 14 seconds West 895.58 feet on and along the North line of said Northeast Quarter to a mag nail; thence South 00 degrees 00 minutes 18 seconds West 64.03 feet to a 5/8 inch rebar with a red cap stamped FIRM 0066 at the POINT OF BEGINNING of this description; thence continuing South 00 degrees 00 minutes 18 seconds West 124.45 feet to a mag nail; thence North 89 degrees 59 minutes 42 seconds West 52.00 feet to a 5/8 inch iron rod with yellow cap stamped Miller Surveying; thence South 00 degrees 00 minutes 18 seconds West 480.35 feet to a 5/8 inch iron rod with yellow cap stamped Miller Surveying; thence South 89 degrees 59 minutes 42 seconds East 52.00 feet to a 5/8 inch rod with yellow cap stamped Miller Surveying; thence South 00 degrees 00 minutes 18 seconds West 188.71 feet to a 5/8 inch rebar with red cap stamped FIRM 0066 on the centerline of the abandoned Central Indiana Railroad; thence South 89 degrees 48 minutes 48 seconds West, along said centerline, 429.39 feet to a 5/8 inch rebar with red cap stamped FIRM 0066; thence North 00 degrees 00 minutes 00 seconds East 796.00 feet to a 5/8 inch rebar with red cap stamped FIRM 0066 on the South line of the parcel conveyed to the State of Indiana by deed recorded as Instrument No. 2007-40163 in the Office of the Recorder of Hamilton County, Indiana; thence (the remaining courses follow said South line) North 89 degrees 17 minutes 14 seconds East 285.29 feet; thence South 87 degrees 55 minutes 13 seconds East 144.29 feet to the point of beginning and containing 7.287 acres, more or less

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ACCEPTANCE

WHEREAS, the foregoing Grantor has this day filed with the City of Westfield, Indiana, its dedication of certain real estate for the purpose of establishing a the Right of Way as hereinabove set forth:

AND WHEREAS, the City of Westfield, is of the opinion that said Dedication is desirable and necessary.

NOW THEREFORE, said City of Westfield, under and by virtue of the power conferred upon it by statutes of the State of Indiana, for and on behalf of the City, accepts said Dedication for the purpose of public rights-of-way, and orders that the Instrument of Dedication be recorded in the Recorder's Office of the County of Hamilton, State of Indiana, and said Right of Way is hereby declared dedicated, subject to the terms of the Dedication. Grantor's obligations under certain Zoning Commitments Concerning the Use and Development of Real Estate entered into by Wilfong Land Companies, LLC, dated the 13th day of August, 2007 are hereby satisfied and no longer apply to the Grantor Property.

ALL OF WHICH IS RESOLVED THIS ___ DAY OF _____, 2010.

WESTFIELD BOARD OF PUBLIC WORKS AND SAFETY

<u>Voting For</u>	<u>Voting Against</u>	<u>Abstain</u>
_____ J. Andrew Cook	_____ J. Andrew Cook	_____ J. Andrew Cook
_____ Jack Hart	_____ Jack Hart	_____ Jack Hart
_____ Mark Heirbrandt	_____ Mark Heirbrandt	_____ Mark Heirbrandt

ATTEST:

Cindy Gossard, Clerk Treasurer

This document prepared by Brian J. Zaiger, Esq. KRIEG DEVAULT, LLP, One Indiana Square, Suite 2800 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. Brian J. Zaiger, Esq.