

# Conditional Sales Agreement

WITNESSETH THIS AGREEMENT dated \_\_\_\_\_, 2012, by and between THE STATE OF INDIANA acting through the Indiana Department of Administration, ("Seller") and \_\_\_\_\_, ("Buyer").

In consideration of this Agreement, Seller and Buyer agree as follows:

1. Sale of Property. Seller agrees to sell to Buyer, and Buyer agrees to buy from Seller, the following property (collectively, "Property"):

- 1.1 Property. The property commonly known as **INDOT Code 2680, Parcels 6 & 7, 15.259 Acres, Cass County, Indiana** described on the attached **Exhibit A** ("Land") together with all buildings, improvements and fixtures constructed or located on the Land ("Buildings") and all easements of record and rights benefiting or appurtenant to the Land (collectively the "Property"), subject to all existing legal rights-of-way, easements, conditions and restrictions of record.
- 1.2 Access. The subject property is "**Landlocked**", Buyer is responsible for gaining legal access to the property.
- 1.3 Personal Property. No personal property is being sold or conveyed as a part of this Purchase Agreement.

2. Purchase Price, Buyer's Premium, and Manner of Payment. The total purchase price ("Purchase Price") to be paid for the Property shall be \_\_\_\_\_ Dollars (\$\_\_\_\_\_). The Purchase Price shall be payable as follows:

- 2.1 In conjunction with execution of this Agreement (the "Execution Date"), Buyer shall submit \_\_\_\_\_ Dollars (\$\_\_\_\_\_) to Seller as earnest money ("Earnest Money"). In the event this Agreement is not accepted by Seller, the Earnest Money shall be promptly returned to Buyer. Upon acceptance of this Offer by Seller, such Earnest Money shall secure the Buyer's performance of this Agreement and in the event of a default by Buyer in the performance of its obligations herein specified, Seller shall have the right to terminate this Agreement and the Earnest Money shall be paid to Seller as liquidated damages as Seller's sole remedy at law or in equity; and
- 2.2 The balance of the Purchase Price, subject to adjustments as set forth herein, shall be payable in certified funds or by electronic transfer of funds on the "Closing Date" (as hereinafter defined).
- 2.3 In addition to the Purchase Price, Buyer shall, at Closing as hereinafter defined, pay Seller's representative a 10% Buyer's premium pursuant to the terms of a separate addendum to this Agreement.

3. Contingencies and Inspection Period. The obligation of the Seller is contingent upon approval of the transaction contemplated by this Agreement as required by **IC 4-13-2-14.1, IC 4-13-2-14.2 and IC 4-20.5-7**.

4. Closing. In the event that Seller has accepted this Agreement and the parties proceed to closing, the closing of the purchase and sale contemplated by this Agreement (the "Closing") shall occur within thirty (30) days following State approval as set forth above (the "Closing Date"), **such final closing is subject to and conditional upon approval by the Office of the**

**Governor and the Indiana Attorney General**, unless extended by mutual agreement of the parties. The Closing shall take place at a time, place, and on a date agreeable by Seller and Buyer. The Buyer will be responsible for title fees, escrow fees, and costs charged by the company with whom the earnest money is deposited as outlined in Section 5.1.

- 4.1 Seller's Closing Documents. On the Closing Date, Seller shall have executed and delivered or caused to be delivered to Buyer the following (collectively, "Seller's Closing Documents"), all in form and content reasonably satisfactory to Buyer:
  - 4.1.1 Deed. A Quitclaim Deed conveying the Property to Buyer, **an exemplar of such Quitclaim Deed is** attached hereto as **Exhibit B**.
  - 4.1.2 Documents. Copies of all contracts, permits and warranties affecting the Property that will survive the Closing, if any.
  - 4.1.3 Sales Disclosure Form. An Indiana sales disclosure form.
  - 4.1.4 Other Documents. All other documents reasonably determined by Buyer to be necessary to transfer title to the Property to Buyer free and clear except Permitted Exceptions to Title.
- 4.2 Buyer's Closing Documents. On the Closing Date, Buyer will execute and deliver to Seller the following (collectively, "Buyer's Closing Documents"):
  - 4.2.1 Purchase Price. Funds representing the Purchase Price, by electronic transfer of immediately available funds.
  - 4.2.2 Assumption of Contracts, Permits, Warranties and Miscellaneous Documents. An Assumption of Contracts, Permits and Warranties, if any, assuming Seller's obligations under such documents.
  - 4.2.3 Sales Disclosure Form. An Indiana sales disclosure form.
  - 4.2.4 Other Documents. All other documents reasonably determined by Seller or Title Company to be necessary to complete the transaction contemplated by this Agreement. Including a Vendor Information form required by the State of Indiana Auditor's Office, **an exemplar of such Vendor Information form is** attached hereto as **Exhibit C**.

5. Allocation of Costs. Seller and Buyer agree to the following allocation of costs regarding this Agreement:

- 5.1 Title Insurance and Closing Fee. Buyer shall be solely responsible for the payment of all premiums and fees associated with title insurance, including any and all closing fees or recording charges. Buyer shall be responsible for payment, at or before Closing, of search fees charged by the title company from whom Seller obtained a preliminary title review and commitment. Unless waived by the title company, said closing fees shall be payable by Buyer whether or not Buyer obtains a policy of title insurance.
- 5.2 Taxes and Assessments. The Property being conveyed is owned by the State of Indiana and is exempt from all real property taxes. The Seller shall assume no responsibility or liability for any real property taxes or other assessments from which it is statutorily exempt. Buyer shall be solely responsible for, and indemnify Seller against, any and all real property taxes assessed with respect to the Real Property on or after Closing.

5.3 Utilities. Seller shall either ensure that utility service to the Property is disconnected as of the Closing Date or shall cooperate with Buyer in having such utility services transferred to Seller's account. All contracts relating to operating the Property shall be canceled as of the Closing Date.

5.4 Attorney's Fees. Each of the parties will pay its own attorney's fees.

6. Evidence of Title. In the event that Buyer does not order and receive a commitment for title insurance, Seller shall, at its expense, within ten (10) days after written request from Buyer, furnish to Buyer a copy of the documents by which the State obtained or otherwise holds title or a letter from the State Land Office describing the documents by which the State obtained and otherwise holds title. Seller will cooperate with the Buyer or its title company in clarifying or resolving any perceived deficiencies or clouds in the title, but shall not be required to incur any expense beyond commitment of the time of the State Land Office. If such issues cannot be resolved to Buyer's satisfaction, Buyer may terminate this Agreement, and the Earnest Money, if any, shall be returned.

7. Maintenance of the Real Property Prior to Closing. During the period from the date of Seller's acceptance of this Agreement to the Closing Date, Seller shall maintain the Property **and improvements** in a reasonably prudent manner. Seller shall execute no contracts, leases or other agreements regarding the Property between the date hereof and the Date of Closing that are not terminable on or before the Closing Date, without the prior written consent of Buyer, which consent may be withheld by Buyer at its sole discretion.

8. Representations and Warranties by Seller. Seller represents and warrants to Buyer as follows:

8.1 Existence; Authority. Seller has the requisite power and authority to enter into and perform this Agreement and to execute and deliver Seller's Closing Documents; such documents have been duly authorized by all necessary action.

8.2 Contracts. Seller has made available to Buyer a correct and complete copy of any Contract and its amendments which will survive a closing hereunder, if any.

8.3 Operations. Seller has received no written notice of actual or threatened cancellation or suspension of any utility services for any portion of the Property. Seller has received no written notice of actual or threatened special assessments or reassessments of the Property.

8.4 Litigation. To Seller's knowledge, there is no litigation or proceeding pending or threatened against or relating to the Property, nor does Seller know of or have reasonable grounds to know of any basis for any such action or claim.

8.5 Physical Condition. Seller makes no representation or warranty concerning the physical condition of the Property and puts Buyer to the obligation to satisfy itself pursuant to the contingency contained in Section 3 above.

9. Casualty; Condemnation. If all or any part of the Property is materially damaged by fire, casualty, the elements or any other cause, Seller shall immediately give notice to Buyer, and Buyer shall have the right to terminate this Agreement and receive back all Earnest Money by giving notice within thirty (30) days after Seller's notice. If eminent domain proceedings are threatened or commenced against all or any part of the Property, Seller shall immediately give notice to Buyer, and Buyer shall have the right to terminate this Agreement and receive back all Earnest Money by giving notice within thirty (30) days after Seller's notice. Termination of this Agreement and return of all Earnest Money are Seller's sole remedies

10. Notices. Any notice required or permitted hereunder shall be given by personal delivery upon an authorized representative of a party hereto; or if mailed by United States certified mail, return receipt requested, postage prepaid; or if transmitted by facsimile copy followed by mailed notice; or if deposited cost paid with a nationally recognized, reputable overnight courier, properly addressed as follows:

If to Seller: Commissioner  
Indiana Department of Administration  
402 W. Washington St., W479  
Indianapolis, IN 46204

With Copy to: Attorney General  
Office of the Indiana Attorney General  
302 W. Washington St.  
Indianapolis, IN 46204

If to Buyer:

With a Copy to:

Notices shall be deemed effective on the date of receipt. Any party may change its address for the service of notice by giving notice of such change ten (10) days prior to the effective date of such change.

11. Miscellaneous. The paragraph headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement, and are not to be considered in interpreting this Agreement. This written Agreement constitutes the complete agreement between the parties and supersedes any prior oral or written agreements between the parties regarding the Property. There are no verbal agreements that change this Agreement, and no waiver of any of its terms will be effective unless in a writing executed by the parties. This Agreement binds and benefits the parties and their successors and assigns. This Agreement has been made under the laws of the State of Indiana, and any suit must be brought in an Indiana court of competent jurisdiction.

12. Remedies. If Buyer defaults, and if Buyer fails to cure such default within ten (10) days of the date of notice of such default from Seller, then Seller shall have the right to terminate this Agreement by giving written notice of termination to Buyer. In the event of termination Seller will receive the Earnest Money as liquidated damages, time being of the essence of this Agreement. The termination of this Agreement and retention of the Earnest Money will be the sole remedy available to Seller for such default by Buyer, and Buyer will not be liable for damages or specific performance. Buyer's sole remedy for any default by Seller shall be termination of this Agreement and return of the Earnest Money.

13. Buyer's Examination. Buyer is relying solely upon its own examination of the Property and inspections in determining its physical condition, character, and suitability for Buyer's intended use of the Property and is not relying upon any representation by Seller or any broker, except for those made by Seller directly to Buyer in writing in **Exhibit D, which is attached to this agreement**. Buyer agrees and acknowledges that it is accepting the Property "AS IS" subject to all faults of every kind and nature whatsoever, whether latent or patent, and whether now or

hereafter existing, and Buyer acknowledges that it has based its decision to purchase the Property solely upon information obtained independently by Buyer. Buyer shall sign a Hold Harmless Affidavit, **an exemplar of such Hold Harmless Affidavit is attached hereto as Exhibit E**. Buyer shall acquire the Property subject to all laws imposed upon the Property by any governmental or quasi-governmental authority having jurisdiction thereof. Buyer represents and warrants to Seller that Buyer has not relied, and will not rely, upon the representation or statement, or the failure to make any representation or statement, by Seller or Seller's agents, employees or by any person acting or purporting to act on the behalf of Seller with respect to the physical condition of the Property.

14. Compliance with Telephone Privacy. As required by IC 5-22-3-7:

(1) the Buyer and any principals of the Buyer certify that (A) the Buyer, except for de minimis and nonsystematic violations, has not violated the terms of (i) IC 24-4.7 [Telephone Solicitation Of Consumers], (ii) IC 24-5-12 [Telephone Solicitations] , or (iii) IC 24-5-14 [Regulation of Automatic Dialing Machines] in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and (B) the Buyer will not violate the terms of IC 24-4.7 for the duration of the Contract, even if IC 24-4.7 is preempted by federal law.

(2) The Buyer and any principals of the Buyer certify that an affiliate or principal of the Buyer and any agent acting on behalf of the Buyer or on behalf of an affiliate or principal of the Buyer (A) except for de minimis and nonsystematic violations, has not violated the terms of IC 24-4.7 in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and (B) will not violate the terms of IC 24-4.7 for the duration of the Contract, even if IC 24-4.7 is preempted by federal law.

15. Withdrawal of Offer. This Agreement shall be deemed to be withdrawn, unless accepted by Seller, after one-hundred-fifty (150) days of delivery to Seller. In the event of a withdrawal under this section, Buyer shall be entitled the return of the Earnest Money.

16. Additional terms.

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17. Non-Collusion and Acceptance. The undersigned attests, subject to the penalties for perjury, that he/she is the Buyer, or that he/she is the properly authorized representative, agent, member or officer of the Buyer, that he/she has not, nor has any other member, employee, representative, agent or officer of the Buyer, directly or indirectly, to the best of the undersigned's knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid any sum of money or other consideration for the execution of this Property Purchase Agreement other than that which appears upon the face of this Agreement.

**In Witness Whereof**, Buyer and the Seller have, through their duly authorized representatives, entered into this Property Purchase Agreement. The parties, having read and understood the foregoing terms, do by their respective signatures dated below hereby agree to the terms thereof.

**BUYER:**

\_\_\_\_\_  
Printed Name  
Title

**BUYER SHALL TAKE TITLE OF THE PROPERTY AS FOLLOWS:**

\_\_\_\_\_  
**BUYERS PRIMARY ADDRESS:**  
\_\_\_\_\_

**SELLER:**

State of Indiana acting through the Indiana Department of Administration.

By \_\_\_\_\_  
For:

## EXHIBIT "A"

**Project:** F-144-6(10)  
**Code:** 2680  
**Parcels 6&7** Excess Land

Sheet 1 of 2

A part of the East Half of the Southwest Quarter and the West Half of the Southeast Quarter of Section 35, Township 27 North, Range 2 East, Tipton Township, Cass County, Indiana, and being that part of the grantor's land lying within the excess land lines depicted on the attached Parcel Plat, marked Exhibit "B", described as follows: Beginning at the southeast corner of said East Half of the Southwest Quarter (said southeast corner also being the southwest corner of said West Half of the Southeast Quarter); thence North 89 degrees 30 minutes 22 seconds West 136.02 feet along the south line of said East Half of the Southwest Quarter; thence North 64 degrees 26 minutes 47 seconds East 151.12 feet to the east line of said East Half of the Southwest Quarter (said east line also being the west line of said West Half of the Southeast Quarter); thence continuing North 64 degrees 26 minutes 47 seconds East 153.72 feet; thence Northeasterly 503.34 feet along an arc to the left and having a radius of 2,989.79 feet and subtended by a long chord having a bearing of North 58 degrees 03 minutes 37 seconds East and a length of 502.45 feet; thence North 45 degrees 59 minutes 43 seconds East 118.94 feet; thence North 51 degrees 58 minutes 02 seconds East 450.11 feet; thence North 57 degrees 48 minutes 51 seconds East 250.80 feet; thence North 53 degrees 14 minutes 25 seconds East 132.40 feet to the east line of said West Half of the Southeast Quarter; thence South 0 degrees 21 minutes 27 seconds West 983.84 feet along said east line to the southeast corner of said West Half of the Southeast Quarter; thence North 89 degrees 27 minutes 12 seconds West 1,317.72 feet along the south line of said West Half of the Southeast Quarter to the southwest corner of said West Half of the Southeast Quarter and the point of beginning and containing 15.259 acres, more or less.

Together with the permanent extinguishment of all rights and easements of ingress and egress to, from, and across the limited access facility (known as U.S.R. 24 and as Project F-144-6(10)) to and from the owner's abutting lands along the 151.12 foot, 153.72 foot, 503.34 foot,

118.94 foot, 450.11 foot, 250.80 foot, and the 132.40 foot courses described above. This restriction shall be binding on all successors in title to the said abutting lands.



This description was prepared for the  
Indiana Department of Transportation  
on the 21<sup>st</sup> day of July, 2010

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

**EXHIBIT B**

**QUITCLAIM DEED**

THIS INDENTURE WITNESSETH, that the STATE OF INDIANA, acting through the Governor of the State of Indiana and the Commissioner of the Indiana Department of Administration, or their respective designees, and by the authority of Indiana Code 4-20.5-7-11, RELEASES and QUITCLAIMS to:

for good, valuable, and sufficient consideration, receipt of which is hereby acknowledged, the real property located in \_\_\_\_\_ County, Indiana and more fully described on Exhibit A, attached hereto and incorporated fully herein.

Subject to all existing legal rights-of-way, easements, conditions, and restrictions of record.

**IN WITNESS WHEREOF**, the undersigned have executed the foregoing Quitclaim Deed on behalf of the State of Indiana this \_\_\_\_\_ day of \_\_\_\_\_ 2012.

\_\_\_\_\_  
**David L. Pippen, Designee for  
Mitchell E. Daniels, Jr. Governor**

State of Indiana    )  
  )     ss:  
County of Marion    )

Before me, a Notary in and for said County and State, personally appeared David L. Pippen, designee of the Governor of Indiana pursuant to IC 4-20.5-7-17 (b), and acknowledged execution of the foregoing Quitclaim Deed this \_\_\_\_\_ day of \_\_\_\_\_ 2012.

Notary signature: \_\_\_\_\_

Notary name printed: \_\_\_\_\_

My commission expires: \_\_\_\_\_ I reside in \_\_\_\_\_ County



**EXHIBIT C**



**Vendor Information**

State Form 53788 (12-08)  
 Approved by Auditor of State, 2008  
 Approved by State Board of Accounts, 2008

**Name and telephone number of the Person who completed this document must be provided.**  
 Name: \_\_\_\_\_  
 Daytime Telephone Number: \_\_\_\_\_

**Send completed form to Auditor of State, 240 Statehouse, 200 W. Washington St., Indianapolis, IN 46204 or fax to (317) 234-1916**

Print or Type  
 Legal Name (OWNER OF THE EIN OR SSN AS NAME APPEARS ON YOUR TAX RETURN. DO NOT ENTER THE BUSINESS NAME OF A SOLE PROPRIETORSHIP ON THIS LINE.)  
 Trade Name (Doing Business as Name D/B/A) (Complete only if payment is to be made payable to the DBA name)  
 Remit Address  
 Purchase Order Address - Optional

**Enter 9-digit Taxpayer Identification Number (TIN) of the legal name:**  
(SSN=Social Security Number, EIN=Employer Identification Number)  
 (Individual's SSN) \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ or EIN \_\_\_\_\_ - \_\_\_\_\_

**Check legal entity type (A box must be checked in this section. Check only one box.)**

Individual     Sole Proprietorship     Partnership  
 Estate / Trust    Note: Show above, the name and number of the legal trust, or estate, not personal representatives  
 Other [Limited Liability Company (LLC) (attach IRS Form 8832 if applicable), Joint Venture, Club, etc.]  
 Corporation    Do you provide legal or medical services?     Yes     No  
 Government (or Government operated entity)  
 Organization Exempt from Tax under Section 501(a)

**One box must be checked**     I am a U.S. Person (including a U.S. resident alien)     I am not a U.S. Person (a W-8 must be filed with the Auditor of State)

Add Deposit     Change Deposit    **Indiana law (I.C. 4-13-2-14.8) requires that YOU receive PAYMENT(S) by means of electronic transfer of funds.**

**SECTION 1: AUTHORIZATION**  
 According to Indiana law, your signature below authorizes the transfer of electronic funds under the following terms:  
 Account Holder's Name: \_\_\_\_\_ Account Number: \_\_\_\_\_  
 Type of Account:     Checking (Demand)     Savings

<b>ATTACH VOIDED CHECK HERE</b>	<p><b>SECTION 2: FINANCIAL INSTITUTION'S APPROVAL (Attach a voided check or have your financial institution complete this section)</b></p> <p>The financial institution identified below agrees to accept automated deposits under the terms set forth herein:</p> <p>Name of Financial Institution: _____</p> <p>Telephone: ( _____ ) _____</p> <p>Address: _____                  _____                  _____</p> <p style="text-align: right;">Financial Institution's Authorized Signature _____</p> <p style="text-align: right;">Title _____</p> <p style="text-align: right;">Date _____, 20____</p> <p style="text-align: left;">ABA Transit-Routing Number _____</p>	<b>ATTACH VOIDED CHECK HERE</b>
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**SECTION 3: ELECTRONIC NOTIFICATION OF ELECTRONIC FUND TRANSFER (EFT) DEPOSITS**  
(Complete this section only if you are requesting electronic notification. You may provide up to four email addresses.)

I hereby request that all future notices of EFT deposits to the bank account specified above be sent to the following email addresses:

\_\_\_\_\_

\_\_\_\_\_

I agree to the provisions contained on the reverse side of this form.

NAME (Print or Type) \_\_\_\_\_ TITLE \_\_\_\_\_

AUTHORIZED SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_ PHONE \_\_\_\_\_

**EXHIBIT D**  
**Property Conditions**

**EXHIBIT E**

**Hold Harmless Affidavit**

STATE OF INDIANA        )  
  )SS:  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT**

Comes now the Affiant(s), \_\_\_\_\_, and swear and affirm to the following:.

- 1) That the above Affiant(s) shall **hold harmless and indemnify** the State of Indiana and its agents, the Indiana Department of Administration and the Indiana Department of Correction and accept the property transfer through Quit Claim Deed without any warranties and receive the property **“As-Is”**.

SUBSCRIBED AND SWORN TO THIS \_\_\_\_\_ DAY OF \_\_\_\_\_,  
20\_\_.

\_\_\_\_\_ Affiant’s printed name

\_\_\_\_\_ Affiant’s signature

State of Indiana        )  
  ) SS:  
County of \_\_\_\_\_ )

Subscribed and sworn to before me a Notary Public this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_.

\_\_\_\_\_  
Notary Public

A Resident of \_\_\_\_\_ County Indiana  
My Commission expires: \_\_\_\_\_