

RESOLUTION 2016-03

RESOLUTION OF THE BOARD OF SANITARY COMMISSIONERS MUNCIE SANITARY DISTRICT OF THE CITY OF MUNCIE, INDIANA ("DISTRICT") PERTAINING TO THE APPROVAL OF THE CONVEYANCE OF THE PROPERTY

WHEREAS, the City of Muncie, Indiana (the "City") owns the properties located at 5150 West Kilgore Avenue and 811 East Centennial Avenue (collectively, the "Property") and as described in the evidence of conveyance of property on Exhibit A attached hereto ("Conveyance"); and

WHEREAS, the District has requested that the City convey the Property to the District for operation as the Water Pollution Control Facility and Sewer Maintenance and the Sanitation Department, respectively (collectively, the "Facility"); and

WHEREAS, each of the City and District each are political subdivisions under Indiana Code 36-1-2-13 and are therefore eligible entities under Indiana Code 36-1-11 and have the authority to enter into transfer agreements to transfer and exchange property under Indiana Code 36-1-11-8; and

WHEREAS, the District has determined it would be advisable for the District to acquire the Property to own and operate the Facility; and

WHEREAS, the City and the District propose to approve the Conveyance; and

WHEREAS, the City has adopted a substantially similar resolution to this resolution authorizing the transfer, exchange and acquisition of the Property as required by Indiana Code 36-1-11-8.

NOW THEREFORE, BE IT RESOLVED BY THE DISTRICT THAT:

SECTION 1. The foregoing recitals and attached exhibit are incorporated herein by reference and are ratified, confirmed and approved.

SECTION 2. The District hereby approves, confirms and ratifies the execution, delivery and performance of the Conveyance in the substantially final form presented to this meeting and authorizes the Board of Sanitary Commissioners of the District (collectively, the "Authorized Officers" and each an "Authorized Officer") singly or otherwise, to effectuate the Conveyance with such changes in form or substance as the Authorized Officers deem appropriate, their approval and acceptance of such changes to be evidenced by their delivery thereof.

SECTION 3. The District hereby finds that the acquisition of the property by the District to be expedient and in the best interests of the District, and desirable or necessary for the proper serving of the constituents of the District.

SECTION 4. The District hereby approves, confirms authorizes and directs any Authorized Officer for and on behalf of and in the name of the District to do any and all other

acts and things, and to execute and deliver any and all other documents, certificates, instruments, statements, and other items, as may be necessary or appropriate to perform all of the terms, provisions and conditions of this resolution.

SECTION 5. The taking of any action or the execution of any instrument by the Authorized Officers in connection with the foregoing resolutions shall be conclusive of such Authorized Officers' determination that the same was necessary to serve the best interests of the District.

SECTION 6. If any section, paragraph or provision of this resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this resolution.

SECTION 7. All resolutions and parts of resolutions in conflict herewith are repealed.

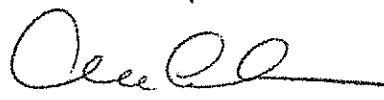
SECTION 8. This resolution shall be in full force and effect from and after its passage and execution.

Adopted this 18th day of February, 2016, by a vote of 3 ayes and 0 nays.

**BOARD OF SANITARY COMMISSIONERS
SANITARY DISTRICT OF THE
CITY OF MUNCIE, INDIANA**



William B. Smith, Board President



Michael R. Cline, P.E., Board Vice-President



Joseph Evans, Board Secretary

EXHIBIT A

Evidence of Conveyance of Property

[To be provided]

Elm Ridge Memorial Park, Inc.

TO

The City of Muncie

Warranty Deed.

This Indenture Witnesseth, That Elm Ridge Memorial Park, Inc., an Indiana corporation, of Delaware County, in the State of Indiana, Conveys and Warrants to the City of Muncie, of Delaware County, in the State of Indiana, for and in consideration of Five Thousand Dollars and other valuable consideration, the receipt whereof hereby is acknowledged, the following described real estate in Delaware County, in the State of Indiana, to wit:

Tract 1:

A part of the Southwest quarter of Section 18, Township 20 North, Range 10 East, and more particularly described as follows: Beginning at the northwest corner of the said southwest quarter section and running thence southwardly on the west line of the said southwest quarter section a distance of 841.80 feet; thence deflecting 80° 11' to the left and continuing on a straight line a distance of 6.40 feet; thence deflecting 15° 22' to the left and continuing on a straight line a distance of 165.00 feet; thence deflecting 17° 44' to the left and continuing on a straight line a distance of 280 feet; thence deflecting 37° 25' to the left and continuing on a straight line a distance of 335.90 feet; thence deflecting 21° 42' to the right and continuing on a straight line a distance of 301.06 feet; thence deflecting 70° 38' to the left and continuing on a straight line a distance of 371.75 feet; thence deflecting 90° 0' to the right and continuing on a straight line a distance of 1497.85 feet to the point of intersection of said straight line with the east line of the aforesaid southwest quarter of Section 18; running thence northwardly on the said east line of the said southwest quarter of Section 18 to the northeast corner of said quarter section, a distance of 180.0 feet; thence westwardly on the north line of the said southwest quarter of Section 18 to the place of beginning.

Said Tract 1 above described is subject to the right and interest of Leonidas L. Bracken, Trustee, created by a deed executed by Chester J. McGriff and Verna M. McGriff, husband and wife, under date of October 23, 1936, and recorded in the office of the Recorder of Delaware County, Indiana, in Deed Record 836, at page 75.

Tract 2:

Also, a part of the east one-half of the southeast one-quarter of Section 13, Township 20 North, Range 9 East, and more particularly described as follows: Beginning at the northeast corner of the said southeast quarter of Section 13, running thence southwardly on the east line of the said southeast quarter section a distance of 822.60 feet; thence deflecting 119° 49' to the right and continuing on a straight line a distance of 183.60 feet; thence deflecting 22° 15' to the right and continuing on a straight line a distance of 252.98 feet; thence deflecting 25° 0' to the left and continuing on a straight line a distance of 448.25 feet; thence deflecting 58° 35' to the left and continuing on a straight line a distance of 104.21 feet; thence deflecting 31° 48' to the right and continuing on a straight line a distance of 75 feet; thence deflecting 7° 57' to the left and continuing on a straight line a distance of 155.45 feet; thence deflecting 97° 57' to the right and continuing on a straight line a distance of 417.80 feet to the intersection of said line with the north line of the aforesaid southeast quarter of Section 13; running thence eastwardly on the said north line of said quarter section 1017.03 feet to the place of beginning.

Said Tract 2 lastly above described is subject to the right, title and interest of the Warner Gear Company and its successors and assigns created by a deed executed by Dee O. Skillen and Effie W. Skillen, his wife, under date of July 21, 1930, and recorded in the office of the Recorder of Delaware County, Indiana, in Deed Record 216, at page 41B, and by a contract dated July 26, 1930, and recorded in Miscellaneous Record "W.V" at pages 3 to 5, inclusive.

Tract 3:

Also, a part of the east one-half of the southeast quarter of Section 13, Township 20 North, Range 9 East, and more particularly described as follows: Beginning at a point 417.80 feet south from the north line of said southeast quarter of Section 13 and 1020.35 feet west from the east line of said southeast quarter of Section 13; running thence southwardly on a straight line 1265.5 feet to a point in the center line of State Road No. 32, and formerly No. 67, as said State Road now is laid out and established in said Section 13; said point being 1030.4 feet west of the east line of said Section 13; thence deflecting 90° 30' to the left and continuing on a straight line a distance of 40 feet; thence deflecting 89° 30' to the left and continuing on a straight line a distance of 1270.75 feet; thence deflecting 97° 57' to the left and continuing on a straight line to the place of beginning.

Said Tract 3 lastly above described is subject to a right of way of the State of Indiana in so much of the south part of said tract as is contained within the limits of the public highway and formerly known as State Road No. 67, and now known as State Road No. 32.

All of the real estate hereinabove conveyed is estimated to contain thirty (30) acres, more or less.

Tract 4:

Also, an Easement and right of way for the construction, repair and maintenance of a levee on a tract of land located in the southwest quarter of Section 18, Township 20 North, Range 10 East, and more particularly described as follows: Beginning at a point 1464.48 feet west from the east line of the said southwest quarter of Section 18, and 180 feet south from the north line of said southwest quarter of Section 18; running thence westwardly and parallel to said north line of said southwest quarter of Section 18, a distance of 33.39 feet; thence deflecting 90° to the left and continuing on a straight line a distance of 41.75 feet; thence deflecting 72° 04' to the left and continuing on a straight line a distance of 362.92 feet; thence deflecting 90° to the left and continuing on a straight line a distance of 50 feet; thence deflecting 90° to the left and continuing on a straight line a distance of 326.92 feet to the place of beginning.

The Warner Gear Company Deed of July 21, 1930

TO

Tract 5:

Also, an easement and right of way for the construction, repair and maintenance of a roadway on a tract of land located in the southeast quarter of Section 13, Township 20 North, Range 9 East, and more particularly described as follows: Beginning at a point 412.21 feet south from the north line of said southeast quarter of Section 13 and 980.35 feet west from the east line of said southeast quarter of Section 13; running thence southwardly and parallel to the said east line of said southeast quarter of Section 13 a distance of 100.89 feet; thence deflecting $102^{\circ} 55'$ to the left and continuing on a straight line a distance of 116.92 feet; thence deflecting $77^{\circ} 05'$ to the left and continuing on a straight line a distance of 90.66 feet; thence deflecting $97^{\circ} 57'$ to the left and continuing on a straight line to the place of beginning.

As a part of the consideration for this conveyance the grantee promises to furnish the grantor, its successors and assigns, with water for the general purposes not however to include supply for any automatic sprinkler system that may be installed at later date, and use of the grantor by a connection of not less than a two inch pipe to the grantee's pump to be installed as a part of the sewerage treatment plant hereafter to be constructed by said grantee.

In Witness Whereof, the said Elm Ridge Memorial Park, Inc., has caused its corporate name to be hereto subscribed by William F. White, its President, and said instrument to be attested and its corporate seal attached by James E. Watkins, its Secretary, this 4th day of October, 1938.

I.R. Stamp \$5.00 Pd.

Elm Ridge Memorial Park, Inc.,

By: William F. White,

President.

Corporate Seal.

Attest: James E. Watkins

Secretary.

State of Indiana
Delaware County SS:

Before me, the undersigned, a Notary Public in and for said County and State, personally came William F. White and James E. Watkins, well known by me to be the President and Secretary, respectively, of Elm Ridge Memorial Park, Inc., and in my presence acknowledged the execution of the above and foregoing warranty deed as their voluntary act and deed for and on behalf of said corporation.

Witness, my hand and Notarial Seal this 4th day of October, 1938.

Gertrude H. Ertel
Notary Public.

L.S.
My Commission expires Sept. 2, 1942.

Duly entered for taxation May 1, 1939. Gus August Meyers, Auditor.
Filed May 1, 1939 at 2:30 P.M.
Fee \$2.50 Pd.

Robert Newwanger
R. D. C.

George F. McChilloch

To City of Muncie

This indenture witnesseth that George F. McChilloch and Cora F. McChilloch his wife of the County of Delaware in the State of Indiana upon the sole consideration that the grantees...

Part of Hackley's reserve more particularly described as follows to-wit: Beginning at the northeast corner of said reserve the same being marked by a stone running thence west with the north line of said reserve 920 feet to the east line of the right of way of the Fort Wayne Cincinnati & Louisville Railway Company running thence south with the east line of said right of way 33 1/2 feet...

Reserve more particularly described as follows to-wit: Beginning at the point in the east line of said reserve 3756 feet south of the northeast corner thereof; running thence south 652 feet and 6 inches to a point 526 feet and 9 inches east of the middle line of Plum street in the City of Muncie Indiana; running thence north 10 degrees and 45 minutes west 77 inches to a point in the middle line of Vycor street produced 409 feet east of the intersection of the middle line of Vycor street and Plum street; running thence north 20 degrees and 52 minutes west 142 feet and 9 inches; running thence north 3 degrees and 33 minutes west 134 feet to a point in the middle line of Broadway street laid out and platted in 1887 by J. H. Vycor and addition to the City of Muncie 490 feet and 5 inches from the intersection of the line of said Broadway street with the middle line of Plum street in said City; running thence north 33 degrees and 13 minutes west 521 feet and 4 inches; running thence north 35 degrees and 45 minutes west 70 feet and 6 inches; running thence north 73 degrees and 45 minutes west 110 feet and 4 inches; running thence north 24 degrees and 30 minutes west 226 feet and 2 inches; running thence south 70 degrees and 39 minutes west 161 feet and 9 inches; running thence south 69 degrees and 20 minutes west 197 feet to the middle line of the main track of the Fort Wayne Cincinnati & Louisville Railway Company; running thence north with the middle line of said main track 118 feet and 5 inches; running thence north 432 feet and 9 inches; running thence north 83 degrees east 253 feet and 8 inches; running thence south 52 degrees east 682 feet to the place of beginning; containing 19.04 acres more or less. The bearings are the magnetic north as read from the magnetic needle August 17th 1892; being the same as the bearings conveyed to said City by deed dated August 19th 1892 and recorded in deed record 73 pages 115 and 116 of the records of said Delaware County.

Excepting from the above description 40.23 acres conveyed by said William H. Whitely and wife to the City of Muncie, Indiana by deed dated August 20 1892 and recorded in deed record 73 at page 117 and 118 of the records of said Delaware County reference to which is hereby made for a particular description of the same, but not however to any title or interest which may hereafter be found or adjudged to belong to the children of John Jack Lutz of Delaware County, Indiana or their heirs or assigns together with the privileges and appurtenances thereto belonging and pertaining in and under that designation all of the water and riparian rights and privileges therein pertaining now heretofore used owned used and enjoyed by the grantors and a plat of said premises has been made and recorded on the date of August 19th 1892; being all of the real estate conveyed by William H. Whitely and wife to the City of Muncie, Indiana by deed dated December 20th 1892 and recorded in deed record No. 74 at pages 250 and 251 of the records in the office of the Recorder of said Delaware County.

In witness whereof said George F. McChilloch and Cora F. McChilloch his wife have hereunto set their hands and seals this 6th day of May 1901.

Geo F. McChilloch (seal)
Cora F. McChilloch (seal)
Before me Arthur W. Brady a Notary Public in and for said the County and State of Indiana on this 6th day of May 1901 personally appeared George F. McChilloch and Cora F. McChilloch his wife and acknowledged the execution of the above and foregoing deed.

Witness whereof I have hereunto set my hand and notarial seal this 6th day of May 1901.
Arthur W. Brady
Notary Public.
Robt B. Monroe and Del Co

By:
Arthur W. Brady
Notary Public.
Robt B. Monroe and Del Co